

## **BROMSGROVE DISTRICT COUNCIL**

### **CONSTITUTION**

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# INTRODUCTION TO THE CONSTITUTION



**Bromsgrove**  
District Council  
[www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk)

### **INTRODUCTION**

- 1.1 Under the Local Government Act 2000 the Council is required to adopt a formal Constitution when operating executive arrangements. A number of Regulations have also been made under the Act which prescribe in considerable detail how the Council should draw up the content of its Constitution, how it allocates functions and how it conducts its business. The Constitution, therefore, has to contain a large number of provisions and in this respect it reflects, generally, the legislation, Government Guidance and model documents.
- 1.2 Because it has to be comprehensive and meet legal requirements and address technical concepts, the Constitution is both long and complex. It is not a user-friendly document!
- 1.3 The purpose of this Guide is not to summarise all the provisions of the Constitution. This Guide seeks to assist Members and Officers by outlining how the Constitution works, and to focus on some of the practical consequences, both in relation to the role of Members of the Council, and that of employees.
- 1.4 The guide describes the component parts of the Constitution, outlining the main features of each and addressing some working or practical consequences of the Constitution.
- 1.5 Of necessity, the Guide has to simplify the complexities of the Constitution and in some instances what it says will be a general rule rather than explain all the exceptions to the rule. So if the reader is in any doubt, reference must be made to the Constitution itself or advice taken from Legal and Democratic Services. Cross-references are provided to help.

### **2. THE FRAMEWORK OF THE CONSTITUTION**

#### **2.1 The Council**

- 2.1.1 The structure diagram inside the front cover shows the formal relationships between the Council, the Executive (the Cabinet), the other Committees and Boards (Non -executive) and the officer structure.
- 2.1.2 A fundamental point is that the legislation provides that the Leader and Cabinet are responsible for what are called 'executive functions' (which cover most of the day to day political decisions), and the Council and committees are responsible for 'non-executive' functions.

### **2.2 Officer Structure and Shared Services**

- 2.2.1 The Council has agreed to the appointment of a shared Chief Executive with Redditch Borough Council and a shared management team. Under this arrangement services are to be shared and delivered by one single team across both Councils.
- 2.2.2 Further details of the shared management team are set out at para 9 of this document and at Part 18. The shared management team has been in place since April 2010. The co-operation between the two Councils on sharing services is reflected by a legal agreement (Overarching Framework Agreement). Proposals for shared services between Redditch and Bromsgrove are considered in the first instance by a panel of members from both Councils who make up the Shared Services Board. The Board has no decision making powers on behalf of the two Councils, and any new arrangements for delivery of services require the approval of Full Council.
- 2.2.3 Notwithstanding the move to delivery of services jointly across both Councils, each Council retains its sovereignty and ability to make decisions for its own constituents independently. Therefore in terms of decision making and the Constitution, each Council continues to be politically independent and to make its own decisions in accordance with the provisions of its own Constitution. There is no intention at this juncture for decision making to be passed to a “joint Council” for the two districts.
- 2.2.4 Further details of the arrangements for shared services with Redditch Borough Council are set out in Part 7 of the Constitution.

### **2.3 Other arrangements for joint working**

- 2.3.1 In addition to the shared arrangements with Redditch Borough Council, the Council is involved in other joint arrangements for provision of services with other Councils in Worcestershire. Since June 2010 Bromsgrove District Council has been the host authority for Worcestershire Regulatory Services. This service was created to carry out the Environmental Health and Licensing functions of the six District Councils. The staff for the service is employed by BDC and it is governed by a Joint Committee made up of two members from each of the authorities involved.
- 2.3.2 In relation to other service areas, Internal Audit Services are now delivered for BDC as part of a shared services hosted by Worcester City Council. The Council has entered into an arrangement with Worcestershire County Council for the County Council to provide an Assets Management Service for the Council. The Council has entered into an arrangement with Redditch Borough Council and Wyre Forest District Council for there to be one shared service for economic development and regeneration hosted by Wyre Forest District Council.

The Council has entered into a similar arrangement with Redditch and Wyre Forest in relation to Building Control Shared service which is hosted by Bromsgrove. The Council has agreed to an arrangement with Wyre Forest District Council and Redditch Borough Council under which Wyre Forest is hosting a shared service for Land Drainage. Finally, the three authorities are collaborating on a shared service for Emergency Planning which is hosted by Wyre Forest District Council.

### **3. THE FULL COUNCIL**

#### **3.1 Composition and Role**

3.1.1 The Council comprises 31 elected members.

3.1.2 The job of the full Council is to approve the Council's main policies (the policy framework as set out in Part 2 the Articles of the Constitution) and the Annual Budget (both revenue and capital). There are other matters reserved to the full Council to decide. These are set out in the Articles at 4.2 and include the appointment of the Leader of the Council.

3.1.3 The Council receives minutes from the Cabinet, which may include recommendations to the Council and also record the business it has considered. In most cases the Cabinet, because of its decision-making role, and the breadth of, its responsibilities will be reporting to the Council on matters where it has already made a decision under its delegated powers.

3.1.4 The Council may also receive reports/recommendations from its other Committees.

3.1.5 The dates of the Council meetings will be published well in advance. Its annual meeting will be in May and it will decide its budget in February to allow Council Tax calculations for the new financial year from April.

3.1.6 Members of the Council have the ability to requisition an extraordinary meeting of the Council under part 8 of the Constitution (Council Procedure Rules).

3.1.7 The Chief Executive, the Monitoring Officer and the section 151 officer have the right to submit reports directly to the full Council.

3.1.8 It should be noted that unless the matter is one which:-

- is for the full Council or its Committees to determine (as set out in Parts 3 - 7 - Responsibility for functions)
- is contrary to the policy framework or not wholly in accordance with the Council's budget
- cannot in law be the responsibility of the Cabinet

then the Council or its other Committees cannot take a decision about that matter (or overturn a decision of Cabinet). That responsibility rests with the Cabinet. Similarly, the Cabinet cannot take a decision which the responsibility of the Council or its Committees.

### **3.2 Meetings of the Council**

3.2.1 Meetings of the Council are relatively formal. The Council's Procedure Rules (Part 8 of the Constitution) govern how a meeting of the Council is conducted. The same rules also apply to certain committee meetings; other committees have their own procedure rules including Cabinet, Overview and Scrutiny Board, Planning Committee and Audit Board.

3.2.2 At Council Meetings the agenda will include presentation of recommendations from Cabinet to Council and reports on any issues to be decided by the Council. Individual Members can ask questions of the Leader or propose motions for debate.

## **4. THE CABINET**

### **4.1 Composition and Role**

4.1.1 The Council is required by law to have an 'Executive', and has chosen the "Leader and Cabinet" model. The Leader is responsible for making arrangements to discharge functions which fall to the executive, whether through the leader personally, individual Cabinet members, or officers.

4.1.2 The Cabinet is not a Committee and is not required to be politically balanced. Meetings are held in public but the Cabinet must comply with the Access to Information Rules as set out in Part 9.

4.1.3 The Council appoints (and can subsequently remove) the Leader at the first Annual Meeting of the Council after elections for the life of the Council. All members of the Council are re-elected every 4 years.

4.1.4 The Cabinet comprises the Leader of the Council and a minimum of 2 and maximum of 8 Members of the Council.

4.1.5 The Leader presides at meetings of the Cabinet. A Deputy Leader presides in the Leader's absence. In the absence of both, a member nominated by those present at the meeting will preside.

4.1.6 The Leader determines the number of areas of political responsibility or "portfolios" and their allocation to members of the Cabinet (Portfolio Holders).

4.1.7 The Leader has determined that Cabinet will take decisions collectively. No individual members of the Cabinet have delegated powers to take decisions on behalf of the Cabinet.

4.1.8 The Cabinet takes decisions on all matters relating to the functions of the Council except those which –

- are reserved to the full Council (e.g. Budget and Policy Framework, Members' Allowances and Code of Conduct)
- are ones which by law the Cabinet cannot take (e.g. deciding Planning applications and Standards matters)
- by choice may not and have not been allocated to the Cabinet.

4.1.9 In general terms, it is therefore the Cabinet who will take the main political decisions in relation to services.

4.1.10 Many decision-making powers continue to be delegated to officers to allow the day to day operation of services to continue. Officers will not be taking 'Key Decisions' (see below). Part 6 contains the scheme of delegation to committees and officers.

4.1.11 Collectively and individually the Cabinet are subject to the overview and scrutiny arrangements which the Council has established (Section 5 below).

## **4.2 Key Decisions**

4.2.1 Certain types of decision which are the responsibility of the Leader and Cabinet are called 'Key Decisions'. It is important to know what they are because only the Cabinet will be taking Key Decisions; and (generally) advance notice has to be given of Key Decisions to be taken through the procedure known as the Forward Plan (4.3 below).

4.2.2 Key Decisions are ones which are likely:-

- (i) To result in the Council incurring expenditure, foregoing income or the making of savings in excess of £50,000 or which are otherwise significant having regard to the Council's budget for the service or function to which the decision relates; or
- (ii) be significant in terms of its effect on communities living or working in an area comprising two or more wards in the district.

## **4.3 The Cabinet Work Programme**

4.3.1 The Leader of the Council has to publish the Cabinet Work Programme each month, which contains a list of what Key Decisions the Cabinet



are likely to take in the following months; when the decision is likely to be taken by the Cabinet; a list of the documents which the Cabinet will consider including any background documents; and the steps to be taken by any person who wants to make representations to the Cabinet about the matter. For transparency, the Cabinet Work Programme also includes non-Key Decisions going to Cabinet.

- 4.3.2 The purpose of the Cabinet Work Programme is to alert the public and members to when Key Decisions are to be taken by the Cabinet so that they can raise matters of concern with the local Councillor or members of the Cabinet or attend.
- 4.3.3 The Cabinet Work Programme has to be updated monthly so that as more details become available, more information can be included in it.
- 4.3.4 The detailed requirements in relation to the Cabinet Work Programme are set out in Part 9 (Access to Information Rules).
- 4.3.5 There are detailed procedures in Part 9 of the Constitution about taking Key Decisions which for some reason have not been included in a Cabinet Work Programme or which are very urgent The Overview and Scrutiny Board also has a right to require the Cabinet to report to the Council on Key Decisions which they believe to have been taken otherwise than in accordance with the required procedures – and the Leader has to report to the full Council quarterly on all special urgency decisions.

#### **4.4 Meetings of the Cabinet**

- 4.4.1 The Cabinet will normally meet monthly in public, unless the matter to be discussed is confidential or exempt.
- 4.4.2 The Cabinet may also meet privately (with no public or local members present) when the business will only be the discussion of matters with officers and not the taking of decisions. They may also meet for informal briefings.
- 4.4.3 The Constitution allows Members to speak at Cabinet meetings, but not to vote.
- 4.4.4 The Cabinet will consider reports from Cabinet Members or more usually from Chief Officers, making recommendations for Cabinet to consider.
- 4.4.5 Decisions taken by the Cabinet are subject to the call-in procedures referred to in Section 5 below. Save in the limited circumstances referred to, they will not take effect until the fifth working day after publication of the Minutes of the relevant meeting of the Cabinet to members of the Council. Due allowance must be made for this in the preparation of any reports to the Cabinet which require a prompt

decision as the minutes must say whether implementation is so urgent that it cannot await the outcome of possible call-in – and why (see paragraph 4.4.8 below). Urgency of implementation may need to be specifically addressed in reports.

- 4.4.6 The Chief Officers (or their representatives) will be entitled to be present at all meetings of the Cabinet.
- 4.4.7 All meetings of the Cabinet will be minuted and every member will receive a copy. These Minutes are the formal record of decisions and also the “trigger” for the call-in procedure. They will also indicate which items (if any) are urgent so that they are not subject to ‘call-in’ but fall to be dealt with under the urgency procedures in the Access to Information procedure rules of the Constitution, summarised in 4.4.8 below.
- 4.4.8 Urgent cases will be those where delay likely to be caused by the call-in process could seriously prejudice either the interest of the Council or the public, and the Chairman (or in his absence Vice-Chairman) of the Overview and Scrutiny Board agrees that the decision is urgent and cannot reasonably be deferred. If those members referred to are unable to act, then the agreement of the Chief Executive or his/her nominee will suffice. These provisions allow a 'check and balance' allowing a person outside the Cabinet to decide whether or not there should be implementation without the risk of call-in suspending the decision.
- 4.4.9 The Cabinet’s own procedures are governed by Part 11 of the Constitution. The Cabinet is not a Committee of the Council and can largely govern its own procedure.

## **5. OVERVIEW AND SCRUTINY ARRANGEMENTS**

### **5.1 Composition and Role**

- 5.1.1 The Council is required by law to have arrangements for Overview and Scrutiny by which recommendations on the development of policies can be made and the Cabinet be held to account for their actions.
- 5.1.2 Any bodies established to carry out Overview and Scrutiny have no delegated powers to take decisions on behalf of the Council.
- 5.1.3 The Council operates a single Overview and Scrutiny Board. From time to time the Board will establish Scrutiny Task Groups to carry out scrutiny exercises.
- 5.1.4 The Overview and Scrutiny Board comprises a Chairman and such other members as the Council appoints. The Board is politically balanced.

- 5.1.5 The size of any Scrutiny Task Group will vary according to the purpose for which it is established. The places on each Task Group need not be allocated strictly in accordance with the political balance of the Council so as to allow Members with a particular knowledge or interest or commitment to take part.
- 5.1.6 Cabinet Members cannot serve on the Overview and Scrutiny Board, or any Scrutiny Task Group.
- 5.1.7 The general terms of reference of the Overview and Scrutiny Board are to perform all overview and scrutiny functions on behalf of the Council in relation to any matter affecting the District and its inhabitants

The specific terms of reference include:-

- a. To receive and consider Councillor Calls for Action
  - b. To perform the functions relating to Crime and Disorder Scrutiny (in accordance with the Police and Justice Act 2006)
  - c. To receive and consider Petitions
  - d. To monitor performance improvement
  - e. To scrutinise the Budget
  - f. To identify unsatisfactory progress or performance and make recommendations on remedial action to the Cabinet;
  - g. To monitor the following Council documents/strategies
  - h. Council Plan
  - i. Council Annual Report
  - j. Performance Management Strategy/Data Quality Strategy
  - k. Quarterly Finance & Performance Monitoring report
- 5.1.8 The Overview and Scrutiny Bodies have extensive powers to conduct research, carry out consultations, hold investigations, undertake visits, encourage community participation, liaise with other organisations, gather evidence, invite advisers and experts to assist them and question members of the Cabinet and (in some circumstances) Chief and senior officers about their decisions and performance.
- 5.1.9 Particular action taken by a Chief or senior officer under delegated powers, which is taken in furtherance of the day to day administration of the service for which the officer is responsible, cannot be called-in or scrutinised. This does not however prevent a questioning of a Chief or senior officer as part of a wider scrutiny exercise.
- 5.1.10 Scrutiny arrangements are governed by the Overview and Scrutiny Procedure Rules in Part 12 of the Constitution. These include an obligation to declare any party whipping arrangements.

### 5.2 Call-in

5.2.1 The Council recognises that the right of call-in should only be used in exceptional circumstances when there is evidence to suggest that the Cabinet has departed from the principles for decision-making. It is not there to be used just because members do not agree with the decision of Cabinet. .

5.2.2 There is a right to call-in decisions taken by the Cabinet before they are implemented. Within three working days of a meeting of the Cabinet the minutes of that meeting will be circulated to all members of the Council and will be available for inspection at the Council House. Unless it is identified as urgent in the Minutes, the decision which the Cabinet has taken will not take effect until five working days have expired after the circulation of the minutes. During the intervening period:-

- not less than three members of the Overview and Scrutiny Board; or
- The Chairman of the Overview and Scrutiny Board; or
- five members of the Council who are not members of the Cabinet;

may “call-in” (with reasons) the decision. It will then be referred to a meeting of the Overview and Scrutiny Board which will decide on the most appropriate way of dealing with the call-in.

5.2.3 The called-in Cabinet decision is then not implemented until either

- the Overview and Scrutiny Board has accepted the decision (with or without comment) or
- the Overview and Scrutiny Board has considered the matter, has proposed modifications and/or referred it back to the Cabinet for reconsideration (or in certain circumstances referred it to the full Council), and the matter has been reconsidered by Cabinet.

5.2.4 The right of call-in is important in enabling members who are not Cabinet members to challenge Cabinet decisions before they are implemented.

5.2.5 The time for call-in is very important, as any Cabinet decision can be implemented on the expiry of the fifth working day after circulation of the Cabinet’s Minutes, if it is not called-in before then. However, restrictions on call-in apply in cases of urgency which are set out in Section 4.4.8 above.

5.2.6 Reference to the full Council would only be appropriate if the decision called-in is one which the Overview and Scrutiny Board believes:-

- the Cabinet cannot in law take; or
- is reserved to the full Council; or
- is contrary or not wholly in accordance with the Budget and Policy Framework.

5.2.7 Details of the call-in procedure are included in the Overview and Scrutiny Procedure Rules (Part 12 of the Constitution).

5.2.8 The operation of call-in will be monitored annually by the Overview and Scrutiny Board.

## **6. OTHER BOARDS AND COMMITTEES**

### **6.1 Composition and Roles**

6.1.1 Certain matters cannot by law be dealt with by the Cabinet. Apart from those reserved to the full Council, these are in the main planning and regulatory functions, though there are some others.

### **6.2 Audit, Standards & Governance Committee**

6.2.1 The Audit, Standards & Governance Committee's main role is to ensure good stewardship of the Council's resources and to assure the Council about the objectivity and fairness of the financial reporting and performance of the Council, the adequacy of the risk management framework and associated controls within the Council, and that any issues arising from the drawing up, auditing and certifying of the Council's accounts are properly dealt with. The Audit, Standards & Governance Committee meets at least four times a year, usually quarterly. The arrangements for the Audit, Standards & Governance Committee are set out in the Audit, Standards & Governance Committee Procedure Rules in Part 13 of the Constitution.

### **6.3 Planning Committee**

6.3.1 The Planning Committee will carry out the planning functions which cannot be the responsibility of the Cabinet. The main function of the Committee is to decide applications relating to development control, trees and planning enforcement. Meetings will take place in accordance with the Planning Committee Procedure Rules in Part 14 of the Constitution.

### **6.4 Licensing Committee**

6.4.1 The Licensing Committee and its sub committees carry out the Licensing functions on behalf of the Council including deciding Licensing policies and considering applications in relation to licensed premises, taxis, street trading and gambling.

### **6.5 Appeals Panel and Appointments Committee**

- 6.5.1 The Council has an Appeals Panel to determine appeals and an Appointments Committee to consider the appointment of Chief Officers and disciplinary matters involving any of the 3 statutory officers of the Council.

### **7. AREA ARRANGEMENTS**

- 7.1 The Council participates in the Local Strategic Partnership for Bromsgrove. This involves working alongside professionals from the County Council and other public bodies in order to improve outcomes for the community.
- 7.2 The Council also has a role to support the work of the Parish Councils in its areas including advice and support regarding ethical standards and Code of Conduct and electoral matters.

### **8. MEMBERS**

#### **8.1 Service on the Cabinet**

- 8.1.1 Every member of the Council, except the Chairman and Vice-Chairman of the Council, is eligible to serve on the Cabinet.

#### **8.2 Service on the other boards and committees**

- 8.2.1 The eligibility of Members to serve on the Council's boards and committees is set out in the terms of reference for these at Part 5 of the Constitution.

#### **8.3 Substitution**

- 8.3.1 There can be no substitution for members of the Cabinet.
- 8.3.2 There can be substitution on the Overview and Scrutiny Board, subject to certain conditions; substitution is not permitted for Task Groups.
- 8.3.3 Substitution may be allowed on any other Committee provided the substitute member is eligible to serve subject to requirements set out in the terms of reference at Part 5 of the Constitution.

#### **8.4 Budget and Policy Framework Procedure Rules**

- 8.6.1 The Budget and Policy Framework Procedure Rules are set out in Part 10. These set out the procedure by which the Cabinet will draw up proposals for the budget and policy framework of the Council.

### **8.7 Member Allowances**

8.7.1 Members may receive the allowances contained in the Scheme of Members Allowances (Part 19 of the Constitution and on the Council's website). These are set by Council following recommendations made by an Independent Remuneration Panel.

### **8.8 Ethical Framework**

8.8.1 Part 20 sets out the Members' Code of Conduct and Part 21 the Code of Conduct relating to the acceptance of gifts and hospitality by Members.

### **8.9 Access to Information**

8.9.1 The Constitution sets out in Part 9 (Access to Information Procedure Rules) arrangements for public access to information and to which members are also entitled.

8.9.2 The Rules also prescribe other information available in connection with overview and scrutiny arrangements and additional rights of access for members.

### **8.10 Member - Member and Member - Officer Relations**

8.10.1 The Council and the public are entitled to expect high standards of conduct from members. In addition to the Member's Code of Conduct, Members are subject to the Member- Officer Protocol in Part 22 of the Constitution and the Member- Member Protocol in Part 23 of the Constitution.

### **8.11 Member involvement in making regulatory decisions**

8.11.1 Members need to ensure that they take particular care in their dealings with members of the public and businesses when they are members of either of the Council's regulatory committees, i.e. Planning Committee and Licensing Committee (and its sub committees). This is because Members of these committees will be called upon to make decisions on applications which may be made by people they know or with whom they have had contact either personally or in their role as a Councillor.

8.11.2 Additional guidance for Members relating to planning and Licensing is set out in the Code of Practice for Planning Services at Part 25 and the Code of Practice for Licensing Services at Part 26.

### **8.12 Member use of ICT**

8.12.1 Members are encouraged to use ICT to access Council and Committee agendas and to enable them to carry out their duties effectively and

efficiently. The rules around use of ICT by Members are set out in the Policy on Members ICT Facilities at Part 27 of the Constitution.

### **8.13 Outside Bodies**

8.13.1 The Council appoints or nominates Members to sit on a wide range of outside bodies and organisations. Further information and guidance to Members in relation to their role on any Outside Bodies is set out in the Protocol on Members Representation on Outside Bodies in Part 29 of the Constitution.

### **8.13 Members Roles and Responsibilities**

8.13.1 A number of role descriptions have been produced setting out the duties and responsibilities of a councillor and various other positions held (such as the Leader, Chairman of Committees etc). These are included in Part 30 of the Constitution.

## **9. OFFICERS**

### **9.1 Designations**

9.1.1 By law the Council must designate officers to hold three statutory offices. These are –

- Head of Paid Service
- Monitoring Officer
- Section 151 Officer

9.1.2 Under the arrangements for the shared management team with Redditch Borough Council it has been agreed that the persons appointed to the posts of Monitoring Officer and Section 151 Officer will carry out that function for both authorities.

9.1.3 The Council has appointed the Chief Officers set out in the management structure at part 18 of the constitution. Details are also available on the Council's website.

Each Chief Officer has staff to undertake the tasks of delivering the Council's services and supporting the corporate management of the Council.

9.1.4 To enable the professional and operational work of the Council to be undertaken, Chief Officers have delegated powers to take a range of decisions on behalf of the Cabinet and the other Committees etc. with decision making powers. In turn Chief Officers can empower certain of their staff to exercise delegated powers on their behalf in respect of particular kinds of decisions.



### **9.2 Delegations**

9.2.1 Part 6 sets out the scheme of delegation to officers.

### **9.3 Financial Regulations**

9.3.1 Financial Regulations are set out in Part 15 and establish a framework for the administration and control of the Council's financial affairs.

9.3.2 In essence, the Financial Regulations set out the frameworks for:-

- Financial Administration
- Accounting Systems / Accounting Records
- Audit
- Budget Responsibilities
- Budget Preparation
- Procurement of Works, Goods, Materials and Services
- Payment for Works, Goods, Materials and Services
- Payments to Employees and Former Employees
- Income
- Banking
- Borrowings, Other Capital Financing and Investments
- Trustees, Receivers, Appointees and Agents
- Assets
- Insurance
- Ex Gratia Payments
- Preparation of Statutory Financial Statements
- Applications and Claims for Grant or Subsidy

### **9.4 Contract Procedure Rules**

9.4.1 Part 16 includes the Council's Current Contract Procedure Rules which set the framework for the acquisition and disposal of goods, works and services.

### **9.5 Employment Procedures**

9.5.1 Part 17 of the Constitution sets out the Officer Employment Procedure Rules.

9.5.2 In essence, all appointments other than the Chief Executive, Directors and Heads of Service reporting directly to Directors must be made by officers and cannot be made by members.

9.5.3 There are specific and procedural rules about appointments of the officers named in paragraph 9.5.2, which are made by the Appointments Committee. The Appointments Committee also deals with the discipline and dismissal of those officers subject, where necessary, to any procedural or legal restrictions.

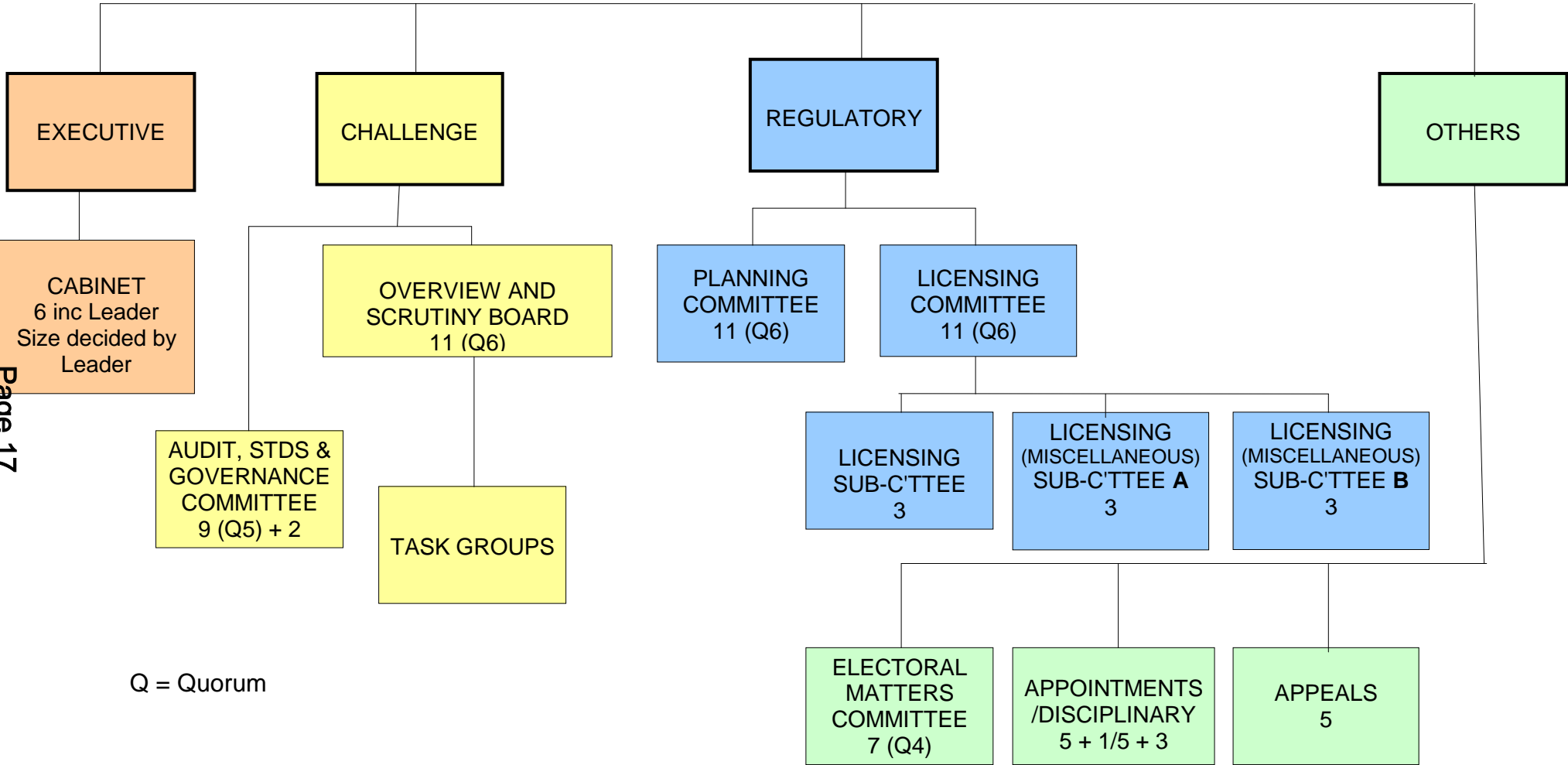
### **10. CITIZENS**

- 10.1 The involvement of citizens with the Council is summarised in Article 3 of the Articles of the Constitution (Part 2 of the Constitution). Citizens are able to attend meetings of the Council which are held in public and obtain information and reports. Citizens can also submit Petitions to the Council. In relation to Petitions, the Council has agreed a petitions protocol.

### **11 CONCLUSION**

- 11.1 This Guide seeks to simplify some of the complexities of the Constitution for members and officers of the Council but is not a substitute - reference must be made to the Constitution for the detailed provisions applicable in any situation or circumstance under discussion. The Constitution is available on the Council's website.
- 11.2 The Head of Legal, Equalities and Democratic Services will always try to assist on any point of interpretation of the Constitution.

**COUNCIL**  
31



Q = Quorum

# Agenda Item 1

**THE ARTICLES OF CONSTITUTION**

<b>Article No.</b>	
1	The Constitution
2	Members of the Council
3	Citizens and the Council
4	The Full Council
5	Chairing the Council
6	Overview and Scrutiny
7	The Cabinet
8	Regulatory and other Committees
9	Area Committees
10	The Audit, Standards and Governance Committee
11	Joint Arrangements
12	Officers
13	Decision-Making
14	Finance, Contracts and Legal Matters
15	Review and Revision of the Constitution
16	Suspension, Interpretation and Publication of the Constitution

### ARTICLE 1 - THE CONSTITUTION

#### 1.1 Powers of the Council

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

#### 1.2 The Constitution

This Constitution and all its parts are the Constitution of Bromsgrove District Council.

#### 1.3 Purpose of the Constitution

The purpose of the Constitution is to:

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

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

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above. The Council will monitor and evaluate the operation of the Constitution as set out in Article 16.

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

### **2.1 Composition and eligibility**

The Council will comprise 31 Members, otherwise called Councillors. One or more Councillors 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. Only registered voters of the District, or those living or working or owning property in the District, will be eligible to hold the office of Councillor.

### **2.2 Election and terms of Councillors**

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

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

All Councillors will:-

- a. collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions;
- b. represent their communities and bring their views into the Council's decision-making process ie become the advocate for their communities;
- c. deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- d. balance different interests identified within their ward and represent the ward as a whole;

- e. contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- f. participate in the governance and management of the Council; and
- g. maintain the highest standards of conducts and ethics.
- h. be available to represent the Council on other bodies

The roles and responsibilities of Councillors are set out in more detail in Part 30 of this Constitution.

### **2.4 Councillors' Rights and Duties**

Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than another member of this Council or officer entitled to know it and any information so divulged to a councillor or officer is to be strictly on a confidential basis

For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 9 of this Constitution.

### **2.5 Conduct**

Councillors will at all times observe the Members' Code of Conduct, Gifts and Hospitality Code of Conduct, the Protocol on Member-Officer Relations and the Protocol on Relations Between Members set out in Parts 20, 21, 22 and 23 of this Constitution.

### **2.6 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 19 of this Constitution.



### ARTICLE 3 – CITIZENS AND THE COUNCIL

#### 3.1 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 9 of this Constitution:

- a. **Voting** Citizens on the electoral roll for the area have the right to vote
- b. **Petitions** Citizens on the electoral roll have the right to sign a petition to request a referendum for an elected mayor form of Constitution. More generally citizens have the right to sign petitions relating to other issues which affect the District. In order to deal effectively with Petitions the Council has agreed a protocol on petitions, which is available on the Council's website.
- c. **Information** Citizens have the right to:
  - (i) attend meetings of the Council and its committees or Boards except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) attend meetings of the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (iii) find out from the Cabinet Work Programme what key decisions will be taken by the Cabinet and when;
  - (iv) see reports and background papers, and any minutes of decisions made by the Council and the Cabinet (other than those comprising confidential or exempt information); and
  - (v) inspect the Council's accounts and make their views known to the external auditor.
- c. **Participation**
  - (i) Citizens may be invited to contribute to investigations by the Overview and Scrutiny Board or Overview and Scrutiny Board Task Groups.

- (ii) Citizens who attend any meeting of the Council are entitled to take a copy of the Agenda and associated reports available in the public gallery.
  - (iii) Citizens may be entitled to address committee meetings but only where public participation has been agreed by the Council.
  - (iv) film/record meetings, when open to the public, in accordance with the Council's protocol;
  - (v) Citizens may be invited from time to time to contribute to other community forums.
- d. **Complaints** Citizens have the right to complain to:
- (i) the Council itself under its Customer Feedback scheme;
  - (ii) the Commissioner for Local Government Ombudsman;
  - (iii) the Monitoring Officer about a breach of the Council's Code of Conduct.

### 3.2 Citizens' responsibilities

Citizens may not disrupt or cause undue disturbance at meetings. Citizens must not be violent, abusive, or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors, or officers.

## ARTICLE 4 – THE FULL COUNCIL

### 4.1 Meanings

"Policy Framework"

The policy framework means the following plans and strategies:-

- Annual Performance Plan
- Crime and Disorder Reduction Plan;
- Plans and strategies which together comprise the Local Development Framework;
- The Development Plan;
- The Council Plan;
- Inclusive Equalities Scheme
- Pay Policy.

### "Budget"

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

## 4.2 Functions of the full Council

Only the Council will exercise the following functions:

- a. adopting and changing the Constitution;
- b. approving or adopting the Budget and the Policy Framework and any application to the Secretary of State in respect of any Housing Land Transfer;
- c. subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 9 of this Constitution, making decisions about any matter in the discharge of a Cabinet function which could have been (but was not) covered by the Budget and Policy Framework or where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget
- d. appointing or removing from office:-
  - (i) the Leader;
  - (ii) the Chairman or Vice-Chairman;
- e. confirming the appointment of the Chief Executive, Monitoring Officer and Section 151 Officer;
- f. agreeing and/or amending the terms of reference for committees and Boards, deciding on their composition and, subject to Article 8.3, making appointments to them;
- g. the appointment and revocation of appointments of representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- h. adopting the Members' allowances scheme;

- j. changing the name of the area or conferring the title of honorary alderman;
- k. making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- l. all local choice functions set out in Part 3 of this Constitution (Responsibilities for Functions) which the Council decides should be undertaken by itself rather than the Cabinet; and
- m. all other matters which, by law, must be reserved to Council.

### **4.3 Council meetings**

There are three types of Council meeting:

- a. the annual meeting;
- b. ordinary meetings;
- c. extraordinary meetings

and they will be conducted in accordance with the Council Procedure Rules in Part 8 of this Constitution.

### **4.4 Responsibility for functions**

The Council will maintain the tables in Parts 3 - 7 of this Constitution setting out:

- a. those functions which are the responsibility of the Council;
- b. those functions which are the responsibility of the Council and which it has delegated to committees or officers.

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

### **5.1 Role and function of the Chairman**

The Chairman and Vice-Chairman of the Council will be elected by the Council annually and neither the Chairman nor the Vice-Chairman will be

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a member of the Cabinet. The Chairman, and in his/her absence the Vice-Chairman, will have the following roles and functions:

- a. To preside over meetings of the full Council, preserve order in meetings and ensure that proceedings are conducted impartially and in a proper manner and with regards to the rights of Councillors and the interests of the community.
- b. To ensure that all councillors have the opportunity to contribute to debates subject to the relevant standing orders and constitution.
- c. To uphold and promote the purposes of the constitution and interpreting it when necessary.
- d. To ensure that the Council meeting is a forum for debate of matters of concern to the local community.
- e. To determine that the Council meeting is properly constituted and that a quorum is present.
- f. To inform himself/herself as to the business and objects of the meeting.
- g. To ensure that discussions at Council are within the scope of the meeting and within the time limits provided.
- h. To rule a point of order and other incidental questions which require decision at the time.
- i. To put relevant questions to the meeting and take a vote thereon; causing a named vote or ballot to be taken if demanded; if necessary to give a second or casting vote; to declare the result.
- j. To adjourn the Council meeting when circumstances justify or require that course.
- k. To declare the Council meeting closed when business is completed.
- l. To act in a proper and dignified manner at all times as befits the office
- m. To establish and maintain effective and efficient working relations with the leaders of other groups, the cabinet, chairmen of other committees/boards, other Members and officers as appropriate.
- n. The Chairman cannot:
  - Be a member of the Cabinet;
  - Be a member of the Audit, Standards and Governance Committee
  - Be a member of the Overview and Scrutiny Board.

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

#### **6.1 Discharge of overview and scrutiny functions**

The Council will appoint an Overview and Scrutiny Board to discharge the functions conferred by:

- a. section 21 of the Local Government Act 2000 or any regulations made under section 32 of the Local Government Act 2000;
- b. sections 119, 236 and 237 of the Local Government and Public Involvement in Health Act 2007; and
- c. section 19 of the Police and Justice Act 2006 and the Crime and Disorder (Overview & Scrutiny) Regulations 2009.

#### **6.2 Composition**

The Overview and Scrutiny Board will be composed of Councillors, none of whom shall be members of the Cabinet;

The Chairman of the Overview and Scrutiny Board may be a member of the non-controlling political group.

#### **6.3 Terms of reference**

The general terms of reference of the Overview and Scrutiny Board will be to perform all overview and scrutiny functions on behalf of the Council in relation to any matter affecting the District and its inhabitants.

#### **6.4 General role of the Overview and Scrutiny Board**

The Overview and Scrutiny Board will:

- a. make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions;
- b. consider any matter affecting the area or its inhabitants;
- c. review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;

- d. exercise the right to call-in for reconsideration, decisions made but not yet implemented by the Cabinet (which right shall not arise before the Cabinet has made a decision).
- e. receive and consider Councillor Calls for Action;
- f. receive and consider Councillor Calls for Action in relation to crime and disorder matters;
- g. review and/or scrutinise decisions made, or other action taken, in connection with the discharge by the Council of its crime and disorder functions;
- h. receive and consider petitions (other than petitions relating to regulatory matters); and
- i. assist the Council and the Cabinet in the development of the Budget.

### **6.5 Specific functions of the Overview and Scrutiny Board**

The Overview and Scrutiny Board may:

- a. review and scrutinise the decisions made by the Cabinet, committees (but not decisions of regulatory committees) and Council Officers.
- b. assist the Council and the Cabinet in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- c. conduct research, community consultation and other consultation in the analysis of policy issues and possible options;
- d. consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- e. question members of the Cabinet and chief officers;
- f. liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- g. review and scrutinise the performance of the Council in relation to its policy objectives and/or particular service areas;
- h. question members of the Cabinet, committees or Boards and chief officers about their decisions whether generally in comparison with service plans and targets over a period of time, or in relation to particular decision, initiatives or projects;
- i. make recommendations to the Cabinet and/or the Council arising from the outcome of the overview and scrutiny process
- j. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the

Overview Board, the Scrutiny Board or Task Groups and local people about their activities and performance; and  
k. question and gather evidence from any person (with their consent).

### **6.6 Finance.**

The Board will exercise overall responsibility for any finances made available to it.

### **6.7 Officers.**

The Head of Legal, Equalities and Democratic Services will in consultation with the Chairman of the Board exercise overall responsibility for the work programme of any officers specifically employed to support the work of the Board.

### **6.8 Proceedings of the Overview and the Scrutiny Board**

The Overview and Scrutiny Board will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 12 of this Constitution.

### **6.9 Annual Report**

The Overview and Scrutiny Board will provide an annual report to Council on the work of the Board together with recommendations for future work programmes and amended working methods if appropriate.

## **ARTICLE 7 – THE LEADER OF THE COUNCIL AND THE CABINET**

### **7.1 Role**

The Council has adopted the Leader and Cabinet Executive (England) governance model for its executive arrangements. The Leader of the Council is responsible for the discharge of such functions as are the responsibility of the Executive of the Council i.e. all functions which by law must be the responsibility of the Executive or which are not the responsibility of any other part of the Council whether by law or under this Constitution ('executive functions'). The Leader may make such arrangements as the Leader thinks fit from time to time for the delegation and discharge of executive functions.



### 7.2 Composition of the Cabinet

- a) Leader of the Council is responsible for the appointment of the Cabinet which will consist of the Leader and not less than 2 nor more than 9 other councillors, as the Leader shall determine. The Leader may change the size of Cabinet (within the above parameters) and appointments to it at any time.
- b) One of the members of the Cabinet will be designated by the Leader as Deputy Leader, to hold office until the end of the Leader's term of office, unless the Deputy Leader resigns, ceases to be a member, is disqualified, or is removed by the Leader at any time.
- c) If for any reason the Leader is unable to act, or the office of Leader is vacant, the Deputy Leader must act in the Leader's place. If the Deputy Leader is unable to act or the office is vacant, the Cabinet must act in the Leader's place or arrange for a member of the Cabinet to do so.
- d) The Cabinet is not a Committee of the Council. Its composition is not required to be in accordance with the political balance of the Council.
- e) The Cabinet collectively, individual members of the Cabinet or officers will be responsible for the discharge of such functions of the executive as are allocated by the Leader of the Council from time to time. The Leader will maintain a List in Parts 3 - 7 of this Constitution (Scheme of Delegation) setting out which Cabinet members, officers or joint or local arrangements are responsible for the exercise of particular Cabinet functions

### 7.3 Leader

The Leader will be a Councillor elected to the position of Leader by the Council at its annual meeting. The Leader shall hold office for a period of 4 years starting on the day of his/her election and ending on the day of the post-election annual meeting unless:

- a) he or she resigns from the office of Leader; or
- b) he or she is disqualified from being or remaining a councillor; or
- c) he or she is no longer a councillor of the Council for any reason;  
or

- d) he or she is removed from office by a resolution of Full Council during the Leader's term of office (and in which case Council will elect a new Leader at that or a subsequent meeting).

### **7.4 Other Cabinet Members**

A Cabinet Member shall hold office until:

- a) he or she resigns from the office; or
- b) he or she is disqualified from being or remaining a councillor; or
- c) he or she is no longer a councillor of the Council for any reason; or
- d) he or she is removed from office by the Leader of the Council

### **7.5 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 11 of this Constitution.

### **7.6 Responsibility for functions**

- a) The Leader will decide on the number, and extent of areas of responsibility, of Cabinet members and will decide to which members of the Cabinet such areas of responsibility shall be allocated; and
- b) The Leader will decide the extent to which responsibility for formal decision-making for functions of the executive may be held collectively by the Cabinet, by individual members of the Cabinet or Officers. The functions assigned to the Cabinet and officers are set out in Parts 3 - 7 of this constitution (Allocation of Functions).
- c) Unless delegated to an individual officer or Cabinet member the Leader may determine that the responsibility of the Cabinet for the exercise of an executive function and decision-making is collective.
- d) The Leader may delegate any responsibility of the Leader or the Cabinet for the exercise of an executive function to any Cabinet Member with Responsibility or any other individual member of the Cabinet, or officer;

- e) The Leader or Cabinet, in relation to an executive function, may specify that a particular decision which would otherwise fall within a power delegated to an officer in accordance with the Scheme of delegation to officers shall not be exercised by that officer but shall be reserved or referred to the Leader, Cabinet or an individual Cabinet member for that decision to be made. An officer may decide not to exercise any executive function delegated to him/her and invite the Leader or Cabinet to take a particular decision in relation to that function.
- f) Where under the Scheme of Delegations a decision-making function has been delegated to the Cabinet the following provisions will apply:-
  - (i) In the case of decisions required to be made urgently such that formal reporting to Cabinet is not possible, the Leader may take that decision in consultation with the relevant Portfolio Holders, the Chief Executive, the Section 151 Officer and the Monitoring Officer;
  - (ii) In the case of decisions made in principle, the Cabinet may authorise the Leader or Portfolio Holder with responsibility to finalise outstanding details in agreement with the appropriate Director or Head of Service.
  - (iii) The Cabinet may arrange for the further delegation of that decision making function to a Cabinet committee or an officer or by way of joint local arrangements.
- g. The Leader or the Cabinet may request the Overview and Scrutiny Board to consider including issues within their work programme.

## **ARTICLE 8 - REGULATORY AND OTHER COMMITTEES**

### **8.1 Regulatory and other committees**

The Council will appoint the committees and boards set out in in Part 5 of this Constitution (Committees) to discharge the functions described in that Table.

### **8.2 Proceedings of Regulatory and Other Committees**

Unless otherwise specifically provided for in Part 5 of this Constitution (Committees), in Parts 12, 13 and 14 (Overview and Scrutiny Procedure Rules, Audit, Standards and Governance Committee Procedure Rules, and Planning Committee Procedure Rules) or elsewhere in this

Constitution, regulatory and other committees will conduct their proceedings in accordance with the Council Procedure Rules in Part 8 of this Constitution.

### **8.3 Appointment to Seats of Regulatory and other Committees**

When the Council allocates seats on a regulatory or other committee to a political group, the appointment of Councillors to those seats shall be at the discretion of the leader of the appropriate political group who shall confirm in writing to the Chief Executive the appointment or removal of any member of that group to any regulatory or other committee.

### **8.4 Qualifications for sitting on Regulatory and other Committees**

- a) The Leader may not sit on any regulatory committee or sub-committee, nor may they act as substitute for another member of a regulatory committee or sub-committee.
- b) The Chairman of the Council cannot be a member of Cabinet, Audit, Standards & Governance Committee or Overview and Scrutiny Board.
- c) The terms of reference of committees at Part 5 of the Constitution set out membership requirements.

## **ARTICLE 9 - AREA COMMITTEES**

The Council may establish Area Committees which may take the form of:

- (i) consultative forums; or
- (ii) decision-making bodies to which either executive functions or non-executive functions may be delegated in which case the Area Committee must operate in accordance with the Council's Constitution including the Access to Information Rules.

## **ARTICLE 10 - THE AUDIT, STANDARDS AND GOVERNANCE COMMITTEE**

### **10.1 Standards**

The Council meeting will establish a Committee to promote and maintain high standards of conduct of Members and to assist in the discharge of

the functions conferred by sections 27 to 37 of the Localism Act 2011. The Committee will be politically balanced under the Local Government Act 1972. This function is carried out by the Audit, Standards and Governance Committee.

### 10.2 Composition

a. **Membership.** The Audit, Standards and Governance Committee will be composed of:

(i) nine District Councillors;

(ii) two co-opted non-voting Parish Representatives who must be members of Parish Councils within the Council's area ( and who shall not be members of the District Council).

b. **Appointment of the Parish Representative.** Parish Representatives shall be appointed by the Council in accordance with such process as the Council shall from time to time determine. In addition to the two Parish Representatives, the Council may appoint a nominated substitute Parish Representative.

c. **Voting.** Only District Councillors will be entitled to vote at meetings.

d. **Parish members.** At least one Parish Member or the substitute Parish Member must be present when matters relating to parish councils are being considered.

e. **Chairing the Committee.** At the first meeting of the Municipal Year one of the District Council members will be appointed as Chairman for the ensuing Municipal Year.

f. **Substitutes.** District Councillors who are unable to attend a meeting of the Audit, Standards and Governance Committee may appoint a District Councillor to attend the meeting as his/her substitute and who may attend, participate in and vote at the Committee meetings in the absence of the District Councillor. A Parish Representative may appoint the nominated substitute Parish Representative who may attend, participate in and vote at Audit, Standards and Governance Committee and sub-committee meetings in the absence of the Parish Representative. Nominated substitutes may in an observational capacity attend meetings of the Audit, Standards and Governance Committee when they are not acting as substitutes. The Audit, Standards and Governance Committee will from time to time determine provisions for appointing substitutes to attend Sub-Committee meetings.

### 10.3 General Role

The Audit, Standards and Governance Committee will have the following roles and functions:

To provide independent assurance to the Council in relation to:

- a. The effectiveness of the Council's governance arrangements, risk management framework and internal control environment, including overseeing:
  - Risk management strategies;
  - Anti-fraud arrangements;
  - Whistle-blowing strategies;
  - Internal and external audit activity
  - Democratic Governance
- b. the effectiveness of the Council's financial and non-financial performance to the extent it affects exposure to risk and poor internal control;
- c. the annual governance statement.
- d. The review of the annual statement of accounts, confirming the appropriate accounting policies have been followed, including the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

#### Appointment of External Auditors

- e. To arrange the recruitment and operation of the Council's Auditor Panel and to recommend the appointment of external auditors in accordance with the requirements of the Audit and Accountability Act 2014.

#### Standards

- f. Promote and maintain high standards of conduct by Councillors and any co-opted members of Council bodies.
- g. Assist Councillors and co-opted members to observe the Members' Code of Conduct.
- h. Advise the Council on the adoption or revision of the Members' Code of Conduct.

- i. Monitor the operation of the Members' Code of Conduct.
- j. Advise, train or arrange to train Councillors and co-opted members on matters relating to the Members' Code of Conduct.
- k. Formulate advice for Members and officers on declarations of gifts and hospitality and monitor and review the arrangements for recording interests, gifts and hospitality.
- l. Grant dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct.
- m. For both District and Parish Councils, deal with any report from the Monitoring Officer following an investigation into a complaint concerning the Members' Code of Conduct.
- n. For both District and Parish Councils, consider and determine allegations that a Councillor or co-opted Councillor may have failed to follow the Code of Conduct and where a breach of the Code is established, impose sanctions as delegated by full Council or make recommendations as to any sanctions to the appropriate person or body.
- o. Monitor and review the operation of the Protocol on Member-Officer relations.
- p. Monitor and review the operation of the Protocol on Member-Member relations.

## **ARTICLE 11 - JOINT ARRANGEMENTS**

### **11.1 General Power of Competence**

The Council or the Cabinet may:

- a. enter into arrangements or agreements with any person or body;
- b. co-operate with, or facilitate or co-ordinate the activities of, any person or body;
- c. exercise on behalf of that person or body any functions of that person or body

where legally permissible.

### **11.2 Joint arrangements**

- a. The Council may establish joint arrangements with one or more local authorities in order to exercise functions which are not Cabinet functions in any of the participating authorities, or in order to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- b. The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- c. Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- d. The Cabinet may appoint members to a joint committee from outside the Cabinet, where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a ward which is wholly or partly contained within the area. In such circumstances the political balance requirements do not apply to such appointments.
- e. Details of any joint arrangements including any delegations to joint committees will be found in Part 7 of this Constitution (Responsibility for Functions – Joint Arrangements).

### **11.3 Access to information**

- a. The Access to Information Rules in Part 9 of this Constitution apply.
- b. If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- c. If the joint committee contains members who are not on the Cabinet of any participating authority then the Access to Information Procedure Rules in Part V of the Local Government Act 1972 will apply.



### 11.4 Delegation to and from other local authorities

- a. The Council may delegate non-Cabinet functions to another local authority or, in certain circumstances, the Cabinet of another local authority.
- b. The Cabinet may delegate Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances.
- c. The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

### 11.5 Contracting out

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

## ARTICLE 12 - OFFICERS

### 12.1 Management structure

#### a. General

The full Council may engage officers as it considers necessary to carry out its functions. The Council has agreed to the appointment of a shared Chief Executive with Redditch Borough Council and a shared management team. The establishment of the Council will include the posts set out in part 18 of the constitution, which form part of the shared management team and, who will be designated chief officers.

#### b. Head of Paid Service, Monitoring Officer and Section 151 Officer

The Council must appoint to these positions and designates the following posts as shown:

- Chief Executive – Head of Paid Service
- Head of Legal, Equalities and Democratic Services – Monitoring Officer
- Executive Director – Finance and Corporate Resources – Section 151 Officer

These posts will have the functions described in Articles 12.2 – 12.4 below.

### c. Structure

The Chief Executive will determine, publicise and keep up to date a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 18 of this Constitution.

(Note: The Council has agreed that as part of the shared management arrangements with Redditch Borough Council, the officers appointed to the posts of Monitoring Officer and Section 151 Officer will carry out that function for both authorities)

### 12.2 Functions of the Head of Paid Service

- a. The Head of Paid Service will report 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.
- b. The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant.

### 12.3 Functions of the Monitoring Officer

- a. **Maintaining the Constitution** The Monitoring Officer will maintain an up to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- b. **Ensuring lawfulness and fairness of decision making** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Council, or to the Cabinet in relation to an Cabinet function, if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposals or decision being implemented until the report has been considered.
- c. **Supporting the Audit, Standards and Governance Committee in relation to Standards matters** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Committee.

- e. **Conducting investigations** The Monitoring Officer will conduct investigations into member complaints and make reports or recommendations in respect of them to the Committee.
- f. **Proper Officer for access to information** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- g. **Advising whether Cabinet decisions are within the Budget and Policy Framework** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.
- h. **Providing advice** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors.
- i. **Restrictions on post** The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

#### 12.4 Functions of the Section 151 Officer

- a. **Ensuring lawfulness and financial prudence of decision making** After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the full Council, or to the Cabinet in relation to an Cabinet function, and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- b. **Administration of financial affairs** The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.
- c. **Contributing to Corporate Management** The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d. **Providing advice** The Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues

to all Councillors and will support and advise Councillors and officers in their respective roles.

- e. **Give financial information** The Section 151 Officer will provide financial information to the media, members of the public and the community.

### **12.5 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.

### **12.6 Conduct**

Officers will comply with any Officers' Code of Conduct and the Protocol on Member-Officer Relations set out in Part 22 of this Constitution.

### **12.7 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 17 of this Constitution.

## **ARTICLE 13 - DECISION MAKING**

### **13.1 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. This record is set out in Parts 3 - 7 of this Constitution.

### **13.2 Principles of decision-making**

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

- a. proportionality (i.e. the action must be proportionate to the proposed outcome);

- b. due consultation and the taking of professional advice from officers;
- c. respect for human rights;
- d. a presumption in favour of openness;
- e. clarity of aims and desired outcomes;
- f. due regard for the Council's environmental objectives;
- g. due regard for the Council's duties in relation to crime and disorder;
- h. clear explanations of the options considered and the reasons for the decision reached.

### **13.3 Types of decision**

- a. Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.
- b. Key Decisions are those executive decisions which are likely to:
  - (i) result in the Council incurring expenditure, foregoing income or the making of savings in excess of £50,000 or which are otherwise significant having regard to the Council's budget for the service or function to which the decision relates; or
  - (ii) be significant in terms of its effect on communities living or working in an area comprising two or more wards in the district.

In considering whether a decision is likely to be significant, a decision-maker will need to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the Council to a significant number of people living or working in the locality affected. This is not intended to capture day-to-day operational management decisions covered by the Council's Scheme of Delegation to Officers.

Key Decisions will include:

- (1) a decision which would result in any expenditure or saving by way of a reduction in expenditure of £50,000 provided the expenditure

or saving is specifically approved in the Medium Term Financial Plan;

- (2) a virement of any amount exceeding £50,000 provided it is within any virement limits approved by the Council;
  - (3) any proposal to dispose of any Council asset with a value of £50,000 or more or which is otherwise considered significant by the Corporate Property Officer;
  - (4) Any proposal to cease to provide a Council service (other than a temporary cessation of service of not more than 6 months);
  - (5) Any proposal which would discriminate for or against any minority group.
- c. A Key Decision must be made in accordance with the requirements of the Cabinet Procedure Rules set out in Part 11 of this Constitution.

### **13.4 Decision making by the full Council**

Subject to Article 13.8, each Council meeting will follow the Council Procedures Rules set out in Part 8 of this Constitution when considering any matter.

### **13.5 Decision-making by the Cabinet.**

Subject to Article 13.8, the Cabinet will follow the Cabinet Procedure Rules set out in Part 11 of this Constitution when considering any matter.

### **13.6 Decision-making by the Overview and Scrutiny Board**

The Overview and Scrutiny Board, will follow the Overview and Scrutiny Procedures Rules set out in Part 12 of this Constitution when considering any matter.

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

Subject to Article 13.8 other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 8 of this Constitution as apply to them or such other Procedure Rules as are set out in Parts 12, 13 and 14 or elsewhere in this Constitution or as otherwise agreed by the Council.

### **13.8 Decision making by Council bodies acting as tribunals**

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

## **ARTICLE 14 - FINANCE, CONTRACTS AND LEGAL MATTERS**

### **14.1 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 15 of this Constitution.

### **14.2 Contracts**

Every contract made by the Council will comply with the Contract Procedure Rules and Procurement Code set out in Part 16 of this Constitution.

### **14.3 Legal proceedings**

The Chief Executive and the Head of Legal, Equalities and Democratic Services are authorised to institute, defend or participate in any legal proceedings or action in any case where such action is necessary to give effect to decisions of the Council or in any case where they consider that such action is necessary to protect the Council's interests.

### **14.4 Authentication of documents**

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

### **14.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal, Equalities and Democratic Services. A

decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal, Equalities and Democratic Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal, Equalities and Democratic Services or some other person authorised by him/her.

## **ARTICLE 15 - REVIEW AND REVISION OF THE CONSTITUTION**

### **15.1 Duty to Monitor and Review the Constitution**

- a. 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.
- b. A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the constitution adopted by the Council and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:
  - (i) observe meetings of different parts of the member and officer structure;
  - (ii) undertake an audit trail of a sample of decision;
  - (iii) record and analyse issues raised with him/her by Councillors, officers, the public and other relevant stakeholders; and
  - (iv) compare practices in the Council with those in other comparable authorities, or national examples of best practice

### **15.2 Changes to the Constitution**

- a. Changes to the Constitution shall not be approved unless approved by a majority of the number of Councillors present, save that the Monitoring Officer may amend Part 18 of the Constitution (Management Arrangements) but only to the extent that such changes reflect either changes to the corporate structure which have been agreed by Council or a change in staffing arrangements.
- b. The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals



for a change from a Leader and Cabinet form of government to alternative arrangements, or vice versa or as otherwise prescribed by statutory requirement.

## **ARTICLE 16 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

### **16.1 Suspension of the Constitution**

The Articles of this Constitution may not be suspended.

### **16.2 Suspension of Rules**

The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law:

- (i) Council Procedure Rules
- (ii) Overview and Scrutiny Board Procedure Rules
- (iii) Audit, Standards and Governance Committee Procedure Rules
- (iv) Cabinet Procedure Rules
- (v) Officer Employment Procedure Rules
- (vi) Financial Regulations
- (vii) Contracts Procedure Rules
- (viii) Budget and Policy Framework Procedure Rules
- (ix) Planning Committee Procedure Rules.

### **16.3 Procedure for Suspension of Rules**

A motion to suspend any Rules will not be moved without notice unless approved by a majority of the number of Councillors present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### **16.4 Interpretation**

Reference in any provision of this Constitution to the appointment of a person or a Member to an office shall be taken to include the removal of that person or Member from that office (subject to compliance with the Officer Employment Procedure Rules or other provision whether statutory or otherwise relating to the employment of staff).

### **16.5 Chairman's Ruling**

The ruling of the Chairman of Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **16.6 Publication**

The Chief Executive will ensure that an update copy of the Constitution is available on the Council's website and a printed copy in the Members' Room.

The Chief Executive will ensure that copies are available for inspection and can be purchased by members of the local press and the public on payment of a reasonable fee.

### **ALLOCATION OF RESPONSIBILITY FOR FUNCTIONS: INTRODUCTION**

1. Introduction
- 1.1 Part 3 of this Constitution deals with the allocation of responsibility for undertaking functions. The Council consists of a number of distinct parts, the key ones being the Executive (Leader and Cabinet) and the Council. Between them these two parts bear the primary responsibility for the function and powers of the Council. In order to operate effectively powers are delegated from the Executive and Council to Committees and officers.
- 1.2 The Council has adopted the “new-style” Leader and Cabinet executive (England) governance model from after its elections in May 2011. The Executive therefore consists of the Leader of the Council (who is appointed by full Council and may be removed by it) and 2 or more councilors appointed to the Cabinet from time to time by that Leader. The executive of Bromsgrove District Council is described as 'the Cabinet'.
- 1.3 In accordance with the law, any function of the Council which is not otherwise specified in legislation is an executive function and is the responsibility of the Leader and the Cabinet. The Leader may personally discharge functions which are the responsibility of the executive or arrange for their discharge by the Cabinet, another member of the Cabinet, a committee of the Cabinet or by an officer. The Leader may change these arrangements from time to time. Unless the Leader otherwise directs the Cabinet itself may arrange for the discharge of any of its functions by a committee of itself, a joint committee or by an officer.
- 1.4 The Leader has decided that all Executive functions will be carried out by the Cabinet collectively.
- 1.5 Parts 3 - 7 set out the way the functions and powers are distributed at Bromsgrove District Council. They are divided into a number of sections each of which deals with different elements of the distribution of functions and exercise of powers.
- 1.6 Parts 3 – 7 of the Constitution should be read in conjunction with the rest of the Constitution, in particular Part 2 Articles of the Constitution.
- 1.7 Parts 3 - 7 of this Constitution shall be interpreted in accordance with the relevant provisions of the Local Government Act 2000, in particular Section 13 ( Functions which are the responsibility of an executive) and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ( as amended).

### 2. Functions

2.1 The Council's functions may be lawfully exercised by:-

- Full Council
- The Leader
- The Cabinet
- Cabinet Members
- Committees and sub-committees of the Council and Cabinet
- Joint Committees
- Officers of the Council
- Others persons so authorised where the law permits

### 3. Categories

The Councils function fall into four categories:-

1. those functions that are by law the responsibility of Full Council unless delegated (sole Council responsibility);
2. those functions that are by law partly the responsibility of Full Council and partly the responsibility of the Council's Executive (shared responsibility);
3. those functions where there is a local choice whether they are the responsibility of the Councils Executive (local choice functions);
4. all other functions, being by law the responsibility of the Council's Executive (default Executive functions).

Non - Executive functions include all those functions that are the responsibility of the Council under paragraphs 1, 2 and 3 above.

Executive functions include all those functions that are the responsibility of the Executive under paragraphs 2, 3 and 4 above.

### 4. Sole Responsibility of Full Council

- 4.1 Decisions about the Council's policy framework and budget, and other constitutional matters may only be taken by Full Council. A list of these matters is shown in Part 2 Article 4 of the Constitution. Article 4.1 lists the policies which make up the "policy framework"; Article 4.2 lists the functions which may only be exercised by Full Council. The exercise of these functions may not be delegated to a committee or officer.
- 4.2 In most cases Full Council is also responsible for the regulatory functions. Full Council has established regulatory committees such as Planning and Licensing to discharge these Full Council only functions.
- 4.3 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) gives effect to section 13 of the Local Government Act 2000 by specifying in Schedule 1 to the regulations which functions are not to be the responsibility of the Executive. In

other words the Executive cannot by law make the decision. For reference these functions fall under the following headings:-

A	Functions relating to town and country planning and development control
B	Functions relation to Licensing and Registration
C	Functions relating to health and safety at work
D	Functions relating to elections
E	Functions relating to name and status of areas and individuals
F	Power to make, amend, re-enact or enforce byelaws
G	Power to promote or oppose local or personal Bills
H	Functions relating to pensions
I	Miscellaneous functions

### 5. Shared Responsibility

5.1 Some functions are partly the responsibility of the Full Council and partly the responsibility of the Executive. These are:

- (a) the budget and any plan or strategy for the control of the borrowing or capital expenditure (capital plan);
- (b) the policy framework, that is the plans and strategies which the Council approves and adopts.

5.2 The Executive will be responsible for preparing the draft budget, draft plans and strategies and proposing them to Full Council.

5.3 Full Council will be responsible for:-

- (a) adopting or approving the draft budget, plan or strategy:
- (b) asking the Executive to reconsider it: or
- (c) amending the budget, plan or strategy.

5.4 The Executive will be responsible for implementing the Council's policies and spending the budget in accordance with the Council's financial rules and regulations.

5.5 Some plans and strategies require ministerial approval after the Council has approved them. If the minister requires any amendments to those plans and/or strategies, the Executive will be responsible for making those arrangements.

### 6. Local Choice Functions

6.1 In some cases there is a local choice as to whether the function is to be the responsibility of the Council or the Executive and Table 1 sets out whether the function is to be the responsibility of the Council or the Executive.

7. Default Executive Functions

7.1 All other functions not so specified are to be the responsibility of the Executive.

7.2 If a decision is the responsibility of the Executive, Council cannot overrule the Executive or give instructions on how the decision should be made. However, in certain circumstances, Council can ask the Executive to reconsider decisions.

### APPENDIX 1

#### LOCAL CHOICE FUNCTIONS

#### **FUNCTIONS WHERE THE AUTHORITY HAS A CHOICE OF EXERCISING THEM THROUGH EITHER THE EXECUTIVE OR THE FULL COUNCIL, AND CHOICE MADE**

<b>FUNCTION</b>	<b>EXECUTIVE OR FULL COUNCIL</b>
1. Any function under a local Act	Executive.
2. The determination of an appeal against any decision made by or on behalf of the authority	Executive in respect of Executive functions and Council in respect of Council functions
3. The appointment of review boards under regulations under subsection (4) of section 34 (Determination of Claims and Reviews) of the Social Security Act 1998	(No longer relevant)
4. Making arrangements for appeal against exclusion of pupils	(County Function)
5 – 6. Making of arrangements for admissions appeals by pupils and Governing Bodies	(County Function)
7 - 8. Functions relating to a Police Authority	(Not Applicable)
9. The conducting of best value reviews. ( Repealed)	(Not Applicable)
10. Any function relating to contaminated land.	Council
11. The discharge of any function relating to the control of pollution or the management of air quality	Council
12. The service of abatement notice in respect of a statutory nuisance	Council
13. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Council
14. The inspection of the authority's area to detect any statutory nuisance	Council
15. The investigation of any complaint as to the existence of a statutory nuisance	Council
16. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land	Council
17. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Council

# Agenda Item 3

## PART 3

18. The making of agreements for the execution of highways works	(County Function)
19. The appointment of any individual – (a) to any office other than an office in which he or she is employed by the authority; (b) to any body other than - (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body and the revocation of any such appointment.	Executive in respect of Executive functions and Council in respect of Council functions
20. The making of arrangements with other local authorities for the placing of staff at the disposal of those other authorities	Executive
21. Any function of a local authority in their capacity as a harbour authority	(Not Applicable)



### **CABINET**

- 1.0 The Cabinet will collectively:
- (a) Carry out all of the Council's functions, including Local Choice functions except those which are required by the law or this Council's Constitution to be the responsibility of the Council itself or any other non-executive part of the Council. It will therefore have responsibility for all executive functions and functions which are responsibility of the executive;
  - (b) Consider and recommend for approval by the Council the budget ;
  - (c) Consider and recommend for approval by the Council any plan and strategy forming part of the Policy Framework of the Council;
  - (d) Consider and recommend for approval by the Council any plan or strategy which the Council has chosen to reserve itself;
  - (e) Subject to the urgency provisions in the Budget and Policy Framework Rules (Part 10), consider and recommend to Council the determination of any matter relating to the Council's budget or approved policy framework, if it is minded to determine the matter in a manner contrary to or not wholly in accordance with the budget, policy framework as the case may be or if it is not authorised by the Council's constitutional arrangements, standing orders, financial regulations, procedure rules or protocols;
  - (f) Consider and respond to overview and scrutiny reports and recommendations;
  - (g) Carry out such other functions as are set out in the Council's Constitution or allocated to it by the Leader, Council or legislation from time to time.

### NOTES

1. The Leader has determined that decisions on behalf of the Executive will continue to be made collectively by the Cabinet. Delegations to officers in relation to executive functions continue as set out in the Allocation of Responsibility for Functions as updated from time to time.
2. Individual Cabinet members will continue to hold responsibility for political leadership in their assigned areas insofar as they are the responsibility of the executive.
3. The Leader of the Council decide the size of the Cabinet and the number of Portfolio Holders.

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### APPEALS PANEL

Number of Members	5
Politically Balanced Y/N	Y
Quorum	3
Procedure applicable	Rules Applicable Council Procedure Rules
Terms of Reference	To hear, consider and determine appeals in accordance with the Council's policies and procedures
Special provisions as to the Chairman	None
Special provisions as to membership	Only those Councillors who have undertaken appropriate training may sit on the Appeals Panel.

### APPOINTMENTS COMMITTEE

Number of Members	6 made up of 5 members of Bromsgrove District Council and the Leader of Redditch Borough as co-optee
Politically Balanced Y/N	Y
Quorum	6
Procedure Rules applicable	Officer Employment Procedure Rules and Council Procedure Rules and applicable Council Procedure Rules
Terms of Reference	<p>a. To consider and recommend to Council matters relating to the appointment of the Head of Paid Service (Chief Executive), Monitoring Officer, Section 151 Officer and Chief Officers as defined in the Local Authorities (Standing Orders) Regulations 2001;</p> <p>b. For the same officers but excluding the head of paid service, monitoring officer and chief finance officer, to consider and decide on matters relating to disciplinary action.</p>
Provisions relating to appointment of Chairman	None
Special provisions as to membership	When considering the appointment or of the Head of Paid Service, monitoring officer or chief finance office, or the appointment or dismissal of the other Chief Officers defined in

	<p>paragraph 3 of the Officer Employment Procedure Rules, one member of the Panel must be a member of the Cabinet (paragraph 4 (2) of the Rules).</p> <p>Only those Councillors who have undertaken appropriate training may sit on the Appointment Committee..</p> <p>The Shared Service arrangements between Bromsgrove District and Redditch Borough Councils require the Chief Executive, Monitoring Officer, Section 151 officer and other Chief Officers to carry out work for both authorities. In the light of this the Leader of Redditch Borough Council will be co-opted onto the Appointments Panel as a non-voting member.</p>
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**AUDIT, STANDARDS AND GOVERNANCE COMMITTEE**

Number of Members	9, none of whom may be members of the Cabinet  + 2 co-opted non voting Parish Council representatives, who may not also be District Councillors, for the purpose of Standards
Attendance by other Councillors	Portfolio Holder with responsibility for finance expected to attend each meeting
Politically Balanced Y/N	Y
Quorum	5
Procedure applicable	<p style="text-align: center;">Rules</p> <p>Audit, Standards and Governance Committee Procedure Rules and Council Procedure Rules (with the exception of Council Procedure Rules 2-4, 6, 8-10, 12.2 – 12.3, 14, 17,19, 20 and 21) – if there is any conflict, Audit, Standards and Governance Committee Procedure Rules to take precedence</p>
Terms of Reference	<p><u>Stewardship and Audit</u></p> <p>To provide independent assurance to the Council in relation to:</p> <p>a. The effectiveness of the Council's governance arrangements, risk management framework and internal control environment, including overseeing:</p> <ul style="list-style-type: none"> <li>• Risk management strategies;</li> <li>• Anti-fraud arrangements;</li> <li>• Whistle-blowing strategies;</li> <li>• Internal and external audit activity</li> <li>• Democratic governance</li> </ul> <p>b. the effectiveness of the Council's financial and non-financial performance to the extent it affects</p>

	<p>exposure to risk and poor internal control;</p> <p>c. the annual governance statement.</p> <p>d. The review of the annual statement of accounts, confirming the appropriate accounting policies have been followed, including the external auditor's report to those charged with governance on issues arising from the audit of the accounts.</p> <p><u>Appointment of External Auditors</u></p> <p>e. To arrange the recruitment and operation of the Council's Auditor Panel, in accordance with the requirements of the Audit and Accountability Act 2014.</p> <p><u>Standards</u></p> <p>f. Promote and maintain high standards of conduct by Councillors and any co-opted members of Council bodies.</p> <p>g. Assist Councillors and co-opted members to observe the Members' Code of Conduct.</p> <p>h. Advise the Council on the adoption or revision of the Members' Code of Conduct.</p> <p>i. Monitor the operation of the Members' Code of Conduct.</p> <p>j. Advise, train or arrange to train Councillors and co-opted members on matters relating to the Members' Code of Conduct.</p> <p>k. Formulate advice for Members and officers on declarations of gifts and hospitality and monitor and review the arrangements for recording interests, gifts and hospitality.</p> <p>l. Grant dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct.</p> <p>m. For both District and Parish Councils, deal with</p>
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	<p>any report from the Monitoring Officer following an investigation into a complaint concerning the Members' Code of Conduct (statutory requirement).</p> <p>n. For both District and Parish Councils, consider and determine allegations that a Councillor or co-opted Councillor may have failed to follow the Code of Conduct and where a breach of the Code is established, impose sanctions as delegated by full Council or make recommendations as to any sanctions to the appropriate person or body (statutory requirement).</p> <p>o. Monitor and review the operation of the Protocol on Member-Officer relations.</p> <p>p. Monitor and review the operation of the Protocol on Member-Member relations.</p>
Special provisions as to the Chairman	None
Whipping arrangements	The party whip must not be applied
Substitutes	<p>Substitutes are permitted</p> <p>A substitute is permitted for the Co-opted Non-voting Parish Representative (who shall not be a member of the same Parish Council as either of the Parish members).</p>
Officer attendance	S151 Officer, Monitoring Officer and Audit Services Manager or their deputies are expected to attend each meeting.
Special provisions as to membership	<p>Quasi-judicial meetings training will be required before members sit on hearings.</p> <p>Members of the Cabinet or the Chairman of the Council may not be a member of or substitute on the Audit, Standards &amp; Governance Committee.</p>



### ELECTORAL MATTERS COMMITTEE

Number of Members	7
Politically Balanced Y/N	Y
Quorum	4
Procedure Rules applicable	Council Procedure Rules (with the exception of Council Procedure Rules 1-4, 9 - 11, 13.4, 13.5, 14, 15, 18.2, 20.1 and 22)
Terms of Reference	To exercise powers and undertake functions relating to electoral matters and elections
Special provisions relating to appointment of Chairman	None
Special provisions as to membership	None

### LICENSING COMMITTEE

Number of Members	11
Politically Balanced Y/N	Y
Quorum	6
Procedure applicable	Rules Council Procedure Rules (with the exception of Council Procedure Rules 1-4, 10-11, 13.4, 13.5, 14 and 21)
Terms of Reference	<ol style="list-style-type: none"> <li>1. To exercise all powers and duties of the Council in licensing and registration except the determination of applications and other matters relating to licences or licence applications delegated to Licensing Sub-Committees; in particular (but not limited to) the exercise of all powers and duties conferred by the Licensing Act 2003 and the Gambling Act 2005</li> <li>2. Enforcement of licensing and registration</li> <li>3. To determine street amenity consents</li> </ol>
Special provisions as to the Chairman	None
Whipping arrangements	No whipping is permitted
Special provisions as to membership	<p>Only those Councillors who have undertaken appropriate training may sit on the Licensing Committee.</p> <p>Neither the Leader nor Deputy Leader may be a member of the Licensing Committee</p>

### LICENSING SUB-COMMITTEE (Parent Committee – Licensing Committee)

Number of Members	3 (from the membership of the Licensing Committee)
Politically Balanced Y/N	N
Quorum	3
Procedure applicable	Rules Council Procedure Rules (with the exception of Council Procedure Rules 1-4, 9-11, 13.4, 13.5, 14, 18.2, 20.1 and 22)
Terms of Reference	To consider and determine applications and hearings arising from the Licensing Act 2003 and the Gambling Act 2005
Special provisions as to the Chairman	None
Special provisions as to membership	Only those Councillors who have undertaken appropriate training may sit on the Licensing Sub-Committee. Neither the Leader nor Deputy Leader may be a member of the Licensing Committee

### LICENSING (MISCELLANEOUS) SUB-COMMITTEES A AND B (Parent Committee – Licensing Committee)

Sub-Committee A and Sub-Committee B will sit in rotation

Number of Members	3 (from the membership of the Licensing Committee) including either the Chairman or Vice-Chairman of the Licensing Committee (with a fourth Member on standby for each meeting)
Politically Balanced Y/N	N (but to include where possible a member of the opposition)
Quorum	3
Procedure applicable	Rules Council Procedure Rules (with the exception of Council Procedure Rules 1-4, 9-11, 13.4, 13.5, 14, 18.2, 20.1 and 22)
Terms of Reference	To determine licensing applications (other than those arising under the Licensing Act 2003 and the Gambling Act 2005) including (but not limited to): <ol style="list-style-type: none"> <li>1. private hire and hackney carriage driver, operator and vehicle licensing;</li> <li>2. street trading consents;</li> <li>3. sex shop applications;</li> <li>4. pet shop licences;</li> <li>5. animal boarding licences;</li> <li>6. riding establishment licences;</li> <li>7. charitable collections;</li> <li>8. street amenity consents.</li> </ol>
Special provisions as to the Chairman	The Chairman shall be either the Chairman or Vice-Chairman of the Licensing Committee
Whipping arrangements	No whipping is permitted
Special provisions as to	Neither the Leader nor Deputy Leader may be a

membership	member of the Licensing (Miscellaneous) Sub-Committee  Only those Councillors who have undertaken appropriate training may sit on the Licensing (Miscellaneous) Sub-Committee.
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**OVERVIEW AND SCRUTINY BOARD**

Number of Members	11, none of whom shall be members of the Cabinet
Politically Balanced Y/N	Y
Quorum	6
Procedure applicable	Rules Overview and Scrutiny Procedure Rules and Council Procedure Rules (with the exception of Council Procedure Rules 1-4, 9-11, 13.4, 13.5, 14, 18.2, 20.1 and 22) – where there is any conflict, Overview and Scrutiny Procedure Rules to take precedence
Terms of Reference	<p>The general terms of reference of the Overview and Scrutiny Board will be to perform all overview and scrutiny functions on behalf of the Council in relation to any matter affecting the District and its inhabitants</p> <p>The specific terms of reference include:-</p> <ol style="list-style-type: none"> <li>a. To receive and consider Councillor Calls for Action</li> <li>b. To perform the functions relating to Crime and Disorder Scrutiny (in accordance with the Police and Justice Act 2006)</li> <li>c. To receive and consider Petitions</li> <li>d. To scrutinise the Budget</li> <li>e. To monitor performance improvement</li> <li>f. To identify unsatisfactory progress or performance and make recommendations on remedial action to the Cabinet;</li> <li>g. To monitor the following Council documents/strategies <ul style="list-style-type: none"> <li>• Council Plan</li> </ul> </li> </ol>

	<ul style="list-style-type: none"> <li>• Council Annual Report</li> <li>• Improvement Plan</li> <li>• Performance Management Strategy/Data Quality Strategy</li> <li>• Quarterly Finance &amp; Performance Monitoring report</li> </ul>
Special provisions as to the Chairman	None
Officer attendance	A Director is expected to attend each meeting. The relevant Head of Service is expected to attend for consideration of any item within his/her area of responsibility
Whipping arrangements	When considering any matter in respect of which a member of the Overview and Scrutiny Board is subject to a party whip, the Councillor must declare the existence of the whip, and the nature of it before the commencement of the Overview and Scrutiny Board's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.
Substitutes	Substitutes are permitted subject to the restriction that each member of the Board may only nominate a substitute on up to two occasions during each municipal year (as set out in rule 1.3 of the Overview and Scrutiny Procedure Rules). [Substitutes cannot be used for Task Group meetings.]
Special provisions as to membership	Members of the Cabinet or the Chairman of the Council may not be a member of or substitute on the Overview & Scrutiny Board.

### PLANNING COMMITTEE

Number of Members	11
Politically Balanced Y/N	Y
Quorum	6
Procedure applicable	Rules Planning Procedure Rules and Council Procedure Rules (with the exception of Council Procedure Rules 1-4, 9-11, 13.4, 13.5, 14, 18.2, 20.1 and 22) – where there is any conflict, Planning Procedure Rules to take precedence
Terms of Reference	<ol style="list-style-type: none"> <li>1. To exercise all powers and duties of the Council on all matters relating to development control, including but not limited to:-               <ol style="list-style-type: none"> <li>a. considering and determining applications for planning permission</li> <li>b. enforcement of planning control</li> <li>c. building preservation, Listed Buildings and Conservation areas</li> <li>d. Tree preservation orders</li> <li>e. Control of advertisements</li> <li>f. Footpath diversion orders under the Town and Country Planning legislation</li> <li>g. Certificates of Lawfulness</li> <li>h. Operational planning policies</li> </ol> </li> <li>2. To comment on proposals for development submitted by Worcestershire County Council and other public authorities</li> <li>3. To determine High Hedges applications in accordance with Part 8 of the Anti-Social Behaviour Act 2003</li> </ol>
Special provisions as to	The Chairman of Planning cannot be a member of



the Chairman	Cabinet.
Substitutes	Trained substitutes are permitted
Special provisions as to membership	<p>Only those Councillors who have undertaken appropriate training may sit on the Planning Committee.</p> <p>The Leader may not be a member or act as a substitute for a member of the Planning Committee.</p>

### STATUTORY OFFICERS DISCIPLINARY ACTION PANEL

Number of Members	8 made up of 5 District Council Members, 2 Independent Persons with voting rights and the Leader of Redditch Borough Council as co-optee
Politically Balanced Y/N	Y
Quorum	7
Procedure applicable	Rules Officer Employment Procedure Rules (incorporating the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015) and applicable Council Procedure Rules
Terms of Reference	In relation to disciplinary action affecting the statutory posts of head of the authority's paid service, monitoring officer and chief finance officer, to consider the issues, including the conclusions of any investigation, and make recommendations to Full Council as to dismissal or alternative action.
Special provisions as to the Chairman	None
Officer attendance	When meeting to determine an issue relating to disciplinary action the committee will be supported by independent external legal advisors.
Special provisions as to membership	The shared service arrangements between Bromsgrove District and Redditch Borough Councils require the Chief Executive, Monitoring Officer, Section 151 officer and other Chief Officers to carry out work for both authorities. In the light of this the Leader of Redditch Borough Council will be co-opted onto the Committee as a non-voting

	<p>member.</p> <p>Only those Councillors who have undertaken appropriate training may sit on the Statutory Officers Disciplinary Action Panel.</p>
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### **Scheme of Delegation: Introduction**

1. This Scheme of Delegation will be updated regularly. However:
  - a) any reference to specific legislation or to statutory provisions shall be deemed to refer to any relevant aspects of any successive legislation or statutory provisions;
  - b) reference to post holder shall be deemed to refer to any successor post holder(s) who is/are charged with the same responsibilities following any reorganisation or reallocation of functions, save that where there is any ambiguity as to who shall exercise a particular delegation of authority, the delegation shall refer to the higher-ranking officer(s). For the avoidance of doubt, successor post holder(s) include officers placed at the disposal of the Council under secondment arrangements pursuant to s113 of the Local Government Act 1972 or any other enactment or power.

### **Delegations to Committees and Sub-Committees**

2. This Scheme of Delegation is not an exhaustive list of matters delegated to Committees and Sub-Committees. The Scheme of Delegation must be read in conjunction with the Terms of Reference for each Committee and Sub-Committee.

### **Delegations to Officers**

3. All powers, duties and responsibilities appropriate and necessary for day to day operational activities shall be deemed to be delegated to the relevant Head of Service with the responsibility for the discharge of that function or the exercise of that power unless otherwise specifically prescribed and shall include authority to incur normal revenue expenditure in the discharge of day to-day operational activities in accordance with Financial Regulations and where budgetary provision has been made unless the Cabinet or Section 151 Officer has placed a conditional approval on any such item. The Scheme of Delegations is not intended to be an exhaustive and complete list of delegations to officers.
4. Notwithstanding that functions are delegated to an officer, the relevant parent committee or other member body with decision-making powers will retain concurrent powers. An officer may decide not to exercise any function in relation to a particular matter and invite the relevant committee or member body with decision-making powers to do so instead.
5. Where an officer whose post is named under this Scheme is unable to act or is absent the powers delegated to him/her may be exercised by

any officer authorised by him in writing or by any more senior officer in that officer's hierarchical line of management up to and including the Chief Executive except where this is not permitted in law or is subject to other qualification. Any delegation to the Chief Executive may in his/her absence be exercised by the Executive Directors, Deputy Chief Executive, Monitoring Officer or Section 151 Officer as may be appropriate.

6. There are further delegations of powers which can be exercised by officers under Contract Procedure Rules.

### **Calling-In Procedure for Ward Members for Planning Committee**

7. When a ward member wishes to call in an application to Planning Committee for consideration, they will, within 21 days of receipt of the notification of that application, contact the case officer and set out their reasons for wanting the application to be considered at committee rather than by officer delegation. The case officer will, in writing, record the request and reasons and send a written record to the Portfolio Holder, Chairman of the Planning Committee and any other ward member(s) for the area in which the application site is situated, of the request and reasons.
8. If a request is made after the deadline set out in paragraph 7 above, the Chairman of the Planning Committee shall make the final decision, taking into account all relevant matters, as to whether the application is considered by the Planning Committee, and will inform the case officer of his decision within 2 working days of receiving the request from the case officer. The ward member who made the request will also be informed of the Chairman's decision.

### **Interpretation of the Scheme of Delegations**

9. The Monitoring Officer shall be the final arbiter in relation to the interpretation and application of the Scheme.

### TRANSFORMATION AND HUMAN RESOURCES

#### 1. IT and Street naming and numbering

Subject	Detail	Delegated by:	Delegated to:
IT Development.	To monitor and update the Council's IT development strategy.	Executive/ Leader.	Head of Transformation and Organisational Development.
Street Naming, House Numbering and Locality Names.	To determine all matters relating to street naming, house numbering and locality names.	Executive/ Leader.	Head of Transformation and Organisational Development following consultation with the Ward Member and, where relevant, Parish Council.
Regulation of Investigatory Powers Act.	See Corporate delegations	Council.	See corporate delegations

# Agenda Item 6

## PART 6

<b>2. Human Resources</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Grants and Honoraria.	To make decisions on the payment of gratuities and honoraria to Council employees undertaking additional duties, provided budgetary provision exists.	Council.	Executive Director Finance and Resources in consultation with the Portfolio Holder..
Posts - Addition, Deletion.	Within the policy and budgets decided by the Council, to make decisions on the addition and deletion of posts and on adjustments to working conditions applying to particular posts (but not generally) insofar as it relates to a restructure which is not associated with the setting of the Council's budget.	Council..	Chief Executive.
Posts - Grading.	Within the policy and budgets decided by the Council, to make decisions on the grading of posts and on adjustments to working conditions applying to particular posts (but not generally).	Council.	Head of Transformation and Organisational Development
Seminars and Conferences.	To appoint the Council's representatives to meetings, seminars, conferences and other events which are not expected to be on-going.	Executive/Leader.	Heads of Service.
Appointment of Heads of Service.	To make appointments (where appropriate in consultation with the Head of Paid Service).	Council.	Executive Directors.
Appointment of Executive Directors.	To make appointments.	Council.	Chief Executive.
Appointment of Staff (below the level of Head of Service).	To make appointments (where appropriate in consultation with the Executive Director(s)).	Council.	Heads of Service.



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## PART 6

Appeals.	To consider and determine appeals in respect of discipline, dismissal, the exercising of delegations (in respect of pension matters) for staff below the level of Head of Service.	Council.	Any one of the following: Chief Executive, Deputy Chief Executive Directors, Heads of Service (other than Head of Transformation and Organisational Development) or a consultant selected by the Head of Transformation and Organisational Development
Appeals (Job Evaluation).	To consider and determine appeals in respect of salary grading.	Council.	Any Officer of Head of Service level or above or a consultant selected by the Head of Transformation and Organisational Development
Careers Conventions.	To make decisions on Careers Conventions and the Council's involvement in work experience and similar schemes, relating to the training of young people.	Executive/Leader.	Head of Transformation and Organisational Development.
Disciplinary and Capability Action.	1. Within the Council's approved disciplinary and capability procedures and National Conditions of Service, to take disciplinary action against, (including dismissal of) the Head of Paid Service, s151 Officer or Monitoring Officer subject to compliance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).	1. N/a.	1. Council.

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## PART 6

	<p>2. Within the Council's approved disciplinary and capability procedures, to take action against, (including dismissal of), Executive Directors, subject, in the case of any Officer designated as Chief Finance Officer or Monitoring Officer, to compliance with the Local Authorities (Standing Orders) (England) Regulations 2001.</p> <p>3. Within the Council's approved disciplinary and capability procedures, to take action against (including dismissal of) Heads of Service and Assistant Chief Executive subject, in the case of any Officer designated as Chief Finance Officer or Monitoring Officer, to compliance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).</p> <p>4. Within the Council's approved disciplinary and capability procedures, to take disciplinary action against (including dismissal of) any member of staff in the department concerned below Head of Service level.</p>	<p>2. Council.</p> <p>3. Council.</p> <p>4. Council.</p>	<p>2. Head of Paid Service.</p> <p>3. Chief Executive/ Head of Paid Service or Executive Directors.</p> <p>4. Heads of Service.</p>
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# Agenda Item 6

## PART 6

Early Retirement Payments.	To exercise discretionary powers under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 to make a single lump sum payment (including any redundancy payment where necessary) of up to no more than 52 weeks actual pay to any employee in accordance with agreed criteria.	Council.	Chief Executive in consultation with Head of Transformation and Organisational Development and the relevant Portfolio Holder.
Examination Success and other Achievements.	Within the budget determined by Council, to make decisions on matters arising from examination success or other special achievements by Council employees.	Executive/Leader.	Heads of Service in consultation with Head of Transformation and Organisational Development
Overtime Payments.	Within the budget determined by Council, to approve payments for overtime working where staff are required to work such overtime in pursuance of the Council's obligations or objectives.	Council.	Chief Executive, Executive Directors, Deputy Chief Executive, Heads of Service.
Pay Award.	Within the budget determined by Council, to implement increases in respect of the annual cost of living pay award as negotiated and agreed by the National Joint Councils or the Joint national Council for all staff.	Council.	Financial Services Manager.
Pay Protection.	To determine an appropriate pay protection policy for all staff.	Council.	Head of Transformation and Organisational Development in consultation with the Chief Executive and Executive Director - Finance and Corporate Resources.

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## PART 6

Recruitment Scheme of Allowances.	To review on a regular basis the Council's policy and allowance rate in respect of the recruitment scheme of allowances (moving house).	Council.	Head of Transformation and Organisational Development.
Terms and Conditions of Employment.	To determine HR policies and procedures and terms and conditions of employment (save where specified by statutory provisions) in respect of all staff (except the Chief Executive).	Council.	Head of Transformation and Organisational Development.
Travel Allowances.	<ol style="list-style-type: none"> <li>1. To implement increases in respect of the lump sum and mileage allowance payable to all staff in accordance with circulars issued by the Joint National Council and National Joint Council.</li> <li>2. To implement and review increases in respect of subsistence allowances on an annual basis.</li> </ol>	Council.	1. & 2. Finance Services Manager

### COMMUNITY SERVICES

#### 1. Strategic Housing

Subject	Detail	Delegated by:	Delegated to:
Discretionary Housing Assistance Grants.	To determine applications for Housing Assistance Grants under the Regulatory (Housing Assistance Grants) (England and Wales) Order 2002.	Executive/ Leader.	Strategic Housing Manager.
Houses in Multiple Occupation.	<ol style="list-style-type: none"> <li>1. To approve, revoke and vary licences relating to houses in multiple occupation under the Housing Act 2004.</li> <li>2. To sign housing-related notices for houses in multiple occupation under the Housing Act 2004.</li> <li>3. To inspect conditions under the Housing Health and Safety Rating System - Housing Act 2004.</li> <li>4. To issue interim and final orders</li> </ol>	<ol style="list-style-type: none"> <li>1. Executive/ Leader</li> <li>2. Executive/ Leader.</li> <li>3. Executive/ Leader.</li> <li>4. Executive/ Leader</li> </ol>	<ol style="list-style-type: none"> <li>1. Strategic Housing Manager.</li> <li>2. Strategic Housing Manager.</li> <li>3. Strategic Housing Manager.</li> <li>4. Strategic Housing Manager</li> </ol>
Housing Act 1985 and Housing Act 2004.	<p style="text-align: center;">To exercise all functions relating to housing conditions, issue of licences, service of orders and notices and powers of entry.</p> <p style="text-align: center;">To institute legal proceedings</p>	Executive/ Leader.	<p style="text-align: center;">Strategic Housing Manager</p> <p style="text-align: center;">Strategic Housing Manager in consultation with Principal Solicitor</p>
Housing Associations - Nominations.	To deal with the nomination where necessary of homeless applicants to housing association dwellings.	Executive/ Leader.	Strategic Housing Manager.

# Agenda Item 6

## PART 6

<b>1. Strategic Housing</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Housing Capacity Study.	To update the site details and housing figures in the Housing Capacity Study on an annual basis using data from the Housing Land Availability Study.	Executive/ Leader.	Strategic Housing Manager.
Housing Corporation Social Housing Grant.	To administer and approve applications and to authorise payment of local authority grant and Housing Corporation Grant under the Housing Corporation IMS System.	Executive/ Leader.	Strategic Housing Manager.
Housing Grants.	To determine applications for housing grants under the Housing Grants, Construction and Regeneration Act 1996.	Executive/ Leader.	Strategic Housing Manager.
Low Cost Housing.	<ol style="list-style-type: none"> <li>1. To administer the Council's low cost housing scheme including the making of nominations and the sale of the Council's interest in dwellings.</li> <li>2. To take all necessary action including the institution of legal proceedings to recover deferred payments from the purchases of low cost homes who are in breach of covenants made in the purchase of low cost housing.</li> <li>3. To revise fees in relation to low cost housing transactions.</li> </ol>	<ol style="list-style-type: none"> <li>1. Executive/ Leader.</li> <li>2. Executive/ Leader.</li> <li>3. Executive/ Leader.</li> </ol>	<ol style="list-style-type: none"> <li>1. Strategic Housing Manager.</li> <li>2. Principal Solicitor.</li> <li>2. Head of Legal, Equalities &amp; Democratic Services, Head of Community Services and Financial Services Manager in consultation with the</li> </ol>

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## PART 6

			relevant Portfolio Holders.
Mandatory Disabled Facilities Grant.	<ol style="list-style-type: none"> <li>1. To determine applications for housing grants under the Housing Grants, Construction and Regeneration Act 1996.</li> <li>2. To grant extensions of time of up to six months within which improvements are to be completed.</li> </ol>	<ol style="list-style-type: none"> <li>1. Executive/ Leader.</li> <li>2. Executive/ Leader.</li> </ol>	<ol style="list-style-type: none"> <li>1. Strategic Housing Manager.</li> <li>2. Head of Community Services.</li> </ol>
Protection from Eviction Act.	To take appropriate action (including the institution of criminal or civil proceedings).	Executive/ Leader.	Head of Community Services or Senior Solicitor.
Utilities - Restoration or Continuance of Services.	To deal in consultation with the relevant Portfolio Holder and generally in accordance with emergency procedures with applications received pursuant to the arrangements according to section 33 of the Local Government (Miscellaneous Provision) Act 1976 (Public Utility Services to Dwellings) and to take such action as may be necessary for the recovery of any payments made by the Council in pursuance of such arrangements.	Executive/ Leader.	Executive Director Finance and Resources or Head of Community Services.
Regulation of Mobile Home Sites	<p>To institute legal proceedings under section 1 of the Caravan Sites and Control of Development Act 1960</p> <p>To take all steps to manage and regulate Mobile Home Sites, including the exercise of power of entry under the following legislation:-</p> <ul style="list-style-type: none"> <li>• Caravan Sites and Control of Development Act 1960</li> </ul>	<p>Council</p> <p>Executive/ Leader</p>	<p>Strategic Housing Manager in consultation with the Principal Solicitor</p> <p>Strategic Housing Manager</p>

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## PART 6

	<ul style="list-style-type: none"> <li>• Caravan Sites Act 1968</li> </ul>		
Requisition for Information	To serve a requisition for information under section 16 of the Local Government (Miscellaneous Provisions Act 1976	Executive/ Leader	Strategic Housing Manager
Boarding up of dangerous buildings	To serve a notice under Section 9 of the Local Government (Miscellaneous Provisions) Act 1982	Executive/ Leader	Strategic Housing Manager
Statutory Nuisance	To take all necessary action in relation to statutory nuisance under the Environmental Protection Act 1990	Council	Strategic Housing Manager



# Agenda Item 6

## PART 6

<b>2. Community Safety</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by</b>	<b>Delegated to</b>
Anti-Social Behaviour - designation of dispersal area.	To determine requests from West Mercia Constabulary to designate an area under section 30 of the Anti-Social Behaviour Act 2003 as an area where there is persistent anti-social behaviour.	Executive/Leader.	Head of Community Services or if unavailable his/her nominated deputy in consultation with the ward members.
Alcohol Consumption in Public Places.	The designation of areas for the purposes of restrictions on alcohol consumption.	Licensing Committee.	Head of Community Services in consultation with the ward member members.

### CORPORATE DELEGATIONS

#### 1. Corporate

Subject	Detail	Delegated by:	Delegated to:
Authentication of Documents.	To sign any document necessary to any legal procedure or proceedings on behalf of the Council.	Council.	Chief Executive (unless any enactment otherwise authorises or requires or the Council has given requisite authority to some other person).
Consultation Documents.	<p>1. To respond on behalf of the Council to consultation documents where there is insufficient time for a response to be agreed by Full Council and where it affects the District of Bromsgrove.</p> <p>[NOTE: For the purposes of this delegation a consultation shall not be regarded as affecting the District of Bromsgrove if it relates to a national issue and would have no more affect on Bromsgrove than it would on any other area.]</p> <p>2. To respond to consultations by the County Council in respect of proposals to carry out alterations to schools in the District or nearby.</p>	1. & 2. Council	<p>1. The Leader and Chief Executive in consultation with the relevant Head of Service or Director.</p> <p>2. Chief Executive in consultation with the relevant Ward Members.</p>

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## PART 6

<p>Emergencies.</p>	<ol style="list-style-type: none"> <li>1. To act in accordance with the delegated procedures set out in the Emergency Plan.</li>   <li>2. To enable Officers to undertake appropriate communications activity during an emergency without recourse to members, should the situation require an immediate response.</li>   <li>3. To incur expenditure essential to meet any immediate needs created by an emergency in accordance with the Financial Regulations.</li> </ol>	<p>1. - 3. Executive/Leader.</p>	<ol style="list-style-type: none"> <li>1. Chief Executive, Executive Directors, Deputy Chief Executive &amp; Heads of Service.</li>   <li>2. Chief Executive, Executive Directors, Deputy Chief Executive.</li>   <li>3. Heads of Service with agreement of the Executive/Leader or, if the Executive/Leader is unavailable and in cases of extreme emergency only, the relevant Portfolio Holder.</li> </ol>
<p>Proper Officer.</p>	<ol style="list-style-type: none"> <li>1. To sign summonses to Council Meetings and to receive notices regarding addresses to which summons to meeting is to be sent under provisions of paragraphs 4(2)(b) and 4(3) of Schedule 12 to the Local Government Act 1972.</li>   <li>2. To be appointed "Proper Officer" in relation to the following provisions of the Local Government Act 1972:</li> </ol>		<ol style="list-style-type: none"> <li>1. Chief Executive or in his/her absence the Monitoring Officer.</li> </ol>

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## PART 6

	<ul style="list-style-type: none"> <li>a. Sections 83(1) to (4) - Witness and receipt of acceptance of office.</li> <li>b. Section 84 - Receipt of declaration of resignation of office.</li> <li>c. Section 89 (1) (b): Receipt of notice of casual vacancy from two local electors.</li> <li>d. Section 229(5): Certification of photographic copies of document.</li> <li>e. Sections 234(1) and (2): Authentication of documents.</li> <li>f. Section 88 (2): Convening of meeting to fill casual vacancy in the office of Chairman.</li> <li>g. Section 204(3): Receipt of application for licence under Sch 2 of Licensing Act 1964.</li> <li>h. Section 210 (6) and (7): Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities, or, if there is no such office to "Proper Officers".</li> <li>i. Section 212(1) and (2): Proper Officer to act as Local Registrar for Land Charges Act 1925.</li> </ul>		<ul style="list-style-type: none"> <li>a. Chief Executive.</li> <li>b. Chief Executive.</li> <li>c. Head of Legal, Equalities and Democratic Services.</li> <li>d. Head of Legal, Equalities and Democratic Services.</li> <li>e. Head of Legal, Equalities and Democratic Services.</li> <li>f. Chief Executive.</li> <li>g. Head of Legal, Equalities and Democratic Services.</li> <li>h. Head of Legal, Equalities and Democratic Services.</li> <li>i. Head of Legal, Equalities and Democratic Services.</li> </ul>
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# Agenda Item 6

## PART 6

	<ul style="list-style-type: none"> <li>j. Section 225: Deposit of documents.</li>   <li>k. Section 236(9): To send copies of byelaws for parish records.</li>   <li>l. Section 236(10): To send copies of byelaws to the County Council.</li>   <li>m. Section 238: Certification of byelaws.</li>   <li>n. Section 228 (3): Accounts of “any Proper Officer” to be open to inspection by any member.</li>   <li>o. Section 191: Function with respect to ordnance survey.</li>   <li>p. Schedule 16 para 28: Receipt on deposit of lists of protected buildings (Section 54(4) of the Town and Country Planning Act 1971).</li>   <li>q. Sections 115(2) and 146(1) (a) and (b): Receipt of money due from Officers declaration and certificates with regard to securities.</li>   <li>r. Section 151.</li> </ul>		<ul style="list-style-type: none"> <li>j. Head of Legal, Equalities and Democratic Services.</li>   <li>k. Head of Legal Equalities and Democratic Services.</li>   <li>l. Head of Legal, Equalities and Democratic Services.</li>   <li>m. Head of Legal, Equalities and Democratic Services.</li>   <li>n. Executive Director Finance and Resources.</li>   <li>o. Head of Planning.</li>   <li>p. Head of Planning.</li>   <li>q. Executive Director Finance and Resources.</li>   <li>r. Executive Director Finance and Resources.</li> </ul>
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# Agenda Item 6

## PART 6

<p>Regulation of Investigatory Powers Act.</p>	<ol style="list-style-type: none"> <li>1. To review, revise and update the Council's RIPA policy.</li> <li>2. Under the provisions of Part 1 chapter 2 of the Regulation of Investigatory Powers Act 2000 relating to the Accessing of Communications Data, to appoint officers to act as SPOCs (Single Point of Contact).</li> <li>3. To grant authorisations, subject to approval by the Magistrate's Court, under the Regulation of Investigatory Powers Act (RIPA) 2000 to conduct covert surveillance.</li> <li>4. In relation to requests for Directed Surveillance, including authorisation as referred to above, to sign all necessary documents and forms whether by way of Authorisation, Review, or Cancellation</li> <li>5. In relation to requests for Covert Human Intelligence Sources where the source is aged under 18, to sign all necessary documents and forms whether by way of Authorisation, Review, or Cancellation.</li> </ol>	<p>1. – 7. Council</p>	<ol style="list-style-type: none"> <li>1. Head of Legal, Equalities and Democratic Services.</li> <li>2. Head of Legal, Equalities and Democratic Services.</li> <li>3. Heads of Service authorised to do so under Appendix 2 of the RIPA policy.</li> <li>4. Heads of Service authorised to do so under Appendix 2 of the RIPA policy.</li> <li>5. Chief Executive or in his absence the Deputy Chief Executive.</li> </ol>
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# Agenda Item 6

## PART 6

	<p>6. To maintain the central record of documents, relating to RIPA policy, including authorisations.</p> <p>7. To carry out all necessary action to ensure that the Office of Surveillance Commissioners is satisfied with the Council's Policy and Procedures in respect of RIPA.</p>		<p>6. The Information Management Team under the supervision of the Head of Transformation and Organisational Development.</p> <p>7. Head of Legal, Equalities and Democratic Services.</p>
<p>Urgent Business.</p>	<p>To determine matters requiring attention as a matter of such urgency that formal reporting to Council, Cabinet or Committee is not possible.</p>	<p>Council or Executive/ Leader (as appropriate).</p>	<p>Chief Executive in consultation with the Executive/ Leader, s151 Officer and the Monitoring Officer, together with, where appropriate, the Chairman of the Overview and Scrutiny Board.</p>

# Agenda Item 6

## PART 6

<b>2. Monitoring Officer</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Constitution and Scheme of Delegation - amendments.	1. To make amendments to the Scheme of Delegation and other areas of the Constitution in order to reflect changes in legislation or regulations, job titles and the reallocation of functions of the Council between departments, provided that the amendments do not extend or reduce the existing delegations or other powers and duties currently listed in the Constitution.	Council.	Monitoring Officer.
	2. To make amendments to that part of the Constitution which comprises the Management Arrangements to the extent that such amendment reflects either a change in personnel or changes to the corporate structure which have been agreed by Council.		Monitoring Officer.
Independent Members of Audit, Standards & Governance Committee.	To undertake all the administrative arrangements in respect of the recruitment of the Independent Member on the Committee, including <ul style="list-style-type: none"> <li>• Short listing of candidates in consultation with the Chairman of the Committee for interview by the Appointments Committee;</li> <li>• Where only one candidate meets the essential criteria, in consultation with the Chairman of the Committee to make recommendations to Council.</li> </ul>	Council.	Monitoring Officer.



# Agenda Item 6

## PART 6

Outside Bodies.	To maintain and amend a list of external bodies and organisations to which Members have been appointed by the Council.	Council.	Monitoring Officer in consultation with the Leader.
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### ENVIRONMENT

#### 1. Cemeteries

Subject	Detail	Delegated by:	Delegated to:
Cemeteries.	<ol style="list-style-type: none"> <li data-bbox="399 566 882 757">1. To operate the Bromsgrove Cemetery and North Bromsgrove Cemetery within the Budget and Policy Framework.</li> <li data-bbox="399 790 882 1003">2. To determine applications to sell flowers at Bromsgrove Cemetery and North Bromsgrove Cemetery and to determine a suitable charge.</li> <li data-bbox="399 1037 882 1292">3. To remove and dispose of floral tributes remaining on a grave where the grave owner has not complied with two written requests to remove tributes.</li> </ol>	<ol style="list-style-type: none"> <li data-bbox="882 566 1189 645">1. Executive/Leader.</li> <li data-bbox="882 790 1189 869">2. Executive/Leader.</li> <li data-bbox="882 1037 1189 1115">3. Executive/Leader.</li> </ol>	<ol style="list-style-type: none"> <li data-bbox="1189 566 1497 645">1. &amp; 2. Head of Environment.</li> <li data-bbox="1189 1037 1497 1160">3. Head of Environment Services.</li> </ol>

# Agenda Item 6

## PART 6

<b>2. Use of land / dogs</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Flowers, Bulbs and Trees.	To approve requests from charitable organisations to plant flowers, bulbs and trees in support of the Charity (other than in parks and open spaces).	Executive/Leader.	Head of Environment.
Inland Revenue Mobile Advice Centre.	To determine requests to site a mobile tax advice centre on the Recreation Road South Car Park.	Executive/Leader.	Head of Environment.
Hay.	To determine requests to harvest hay from areas of recreation and amenity land subject to any environmental and conservation considerations and that any income generated be allocated to recreation purposes.	Executive/Leader.	Head of Environment.
Dogs.	<ol style="list-style-type: none"> <li>1. To act on behalf of the Council as regards the seizure of dangerous dogs in any public place under section 5 of the Dangerous Dogs Act 1991.</li> <li>2. To be responsible under s149 of the Environment Protection Act 1990 for the discharge of the Council's functions in respect of stray dogs found within the district.</li> <li>3. To make decisions connected with the control of dogs and fouling nuisance including the designation of areas of land under The Dogs (Fouling of Land) Act 1996.</li> </ol>	1. – 3. Executive/Leader.	1. – 3. Head of Environment.

# Agenda Item 6

## PART 6

<b>3. Car Parking and Transport</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Car Parks - Holding of Events.	To determine requests to hold events on any Council car park.	Executive/Leader.	Head of Environment in consultation with the relevant Parish Council (if any).
Car Parking Order.	<ol style="list-style-type: none"> <li>1. To make amendments to the Car Parking Order (other than alterations to car parking charges and excess penalty notice charges).</li> <li>2. To make amendments to the Car Parking Order to alter car parking charges and excess penalty notice charges where such alterations have been approved by Council or Executive/ Leader, as appropriate.</li> </ol>	<ol style="list-style-type: none"> <li>1. Executive/ Leader.</li> <li>2. Executive/ Leader.</li> </ol>	<ol style="list-style-type: none"> <li>1. Head of Environment.</li> <li>2. Head of Environment.</li> </ol>
Off Street Parking - Removal of Vehicles.	To arrange for the removal of any vehicle left in a parking place in contravention of an Order made by the Council under the Road Traffic Regulation Act 1984 relating to off-street parking or to arrange for the alteration of the position of any vehicle so its position complies with the provision of such an Order.	Executive/Leader.	Head of Environment.
Goods Vehicles - Operators Licences.	To comment or object to applications made under the Goods Vehicles (Licensing of Operators) Act 1985.	Council.	Head of Environment.

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## PART 6

<b>4. Trees</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
High Hedges.	<ol style="list-style-type: none"> <li>1. To determine High Hedge applications submitted in accordance with Part 8 of the Anti-Social Behaviour Act 2003 and to issue a remedial notice where appropriate when:               <ol style="list-style-type: none"> <li>a. such applications are submitted by or on behalf of any officer of the Council or any Parish Council within the District of Bromsgrove.</li> <li>b. such applications are submitted by or on behalf of any County, District or Parish Councillor whose ward is within the district of Bromsgrove.</li> <li>c. any County, District or Parish Councillor whose ward is within the District of Bromsgrove is affected by such an application.</li> </ol> </li> <li>2. In all other circumstances to determine all High Hedge applications submitted in accordance with Part 8 of the Anti-Social Behaviour Act 2003 and to issue a remedial notice where appropriate.</li> </ol>	<ol style="list-style-type: none"> <li>1. Council.</li> <li>2. Planning Committee.</li> </ol>	<ol style="list-style-type: none"> <li>1. Planning Committee</li> <li>2. Head of Environment.</li> </ol>
Inspection Notices.	To serve notices of intended inspection under sections 196A, 196B, 214B, 324 and 325 of the Town and Country Planning Act 1990.	Planning Committee.	Senior Solicitor.
Rights of Entry - Proper Officer.	<ol style="list-style-type: none"> <li>1. To be designated as the Proper Officer for the purposes of authorising persons to enter onto land in</li> </ol>	<ol style="list-style-type: none"> <li>1. Planning Committee.</li> </ol>	<ol style="list-style-type: none"> <li>1. Head of Environment.</li> </ol>

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	<p>connections with the exercise of functions under sections 196A, 196B, 214B and 324 of the Town &amp; Country Planning Act 1990.</p> <p>2. To issue and serve notices of intended inspection under sections 196A, 214B, 324 and 325 of the Act.</p>	2. Planning Committee.	2. Senior Solicitor.
Tree Preservation Orders.	To initiate Tree Preservation Orders.	Council.	Head of Environment.
Tree Preservation Orders - Confirmation.	<p>1. To confirm Tree Preservation Orders under the provisions of the Town &amp; Country Planning Act 1990 in cases where objections have been received.</p> <p>2. To confirm Tree Preservation Orders in all other cases.</p>	<p>1. Council.</p> <p>2. Planning Committee.</p>	<p>1. Planning Committee.</p> <p>2. Head of Environment.</p>
Tree Preservation Orders - Applications to Fell.	To determine applications for the felling of large trees (i.e. mature or over-mature trees), major pruning operations (i.e. major canopy reduction, reshaping works) and contentious applications for tree work, whether or not as part of a planning application.	Council.	Planning Committee.
Tree Preservation Orders - Works to Protected Trees.	<p>1. To authorise certain categories of works to protected trees.</p> <p>2. To determine applications to carry out the following work:</p> <ol style="list-style-type: none"> <li>a. the felling of small trees.</li> <li>b. the removal of dead, dying or diseased trees.</li> <li>c. pruning for reasons of health and safety to</li> </ol>	<p>1. Planning Committee.</p> <p>2. Planning Committee.</p>	<p>1. Head of Environment.</p> <p>2. Head of Environment.</p>

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	<p>trees of any size.</p> <p>d. minor pruning works.</p> <p>e. the felling of conifers and pioneer trees species (including but not limited to birch, ash, rowan and hawthorn).</p>		
Tree Preservation Orders - Contravention.	To institute proceedings under s210 of the Town & Country Planning Act 1990 in respect of contraventions of Tree Preservation Orders.	Council.	Planning Committee.
Tree Preservation Orders - revocation or variation.	<p>1. To revoke or vary a Tree Preservation Order where the original confirmation was made by Planning Committee.</p> <p>2. To revoke or vary in all other cases.</p>	<p>1. Council.</p> <p>2. Planning Committee.</p>	<p>1. Planning Committee.</p> <p>2. Head of Environment.</p>
Trees & Shrubs overhanging the Highway.	To serve notices under section 154 of the Highway Act 1980 requiring the lopping or cutting of the hedge, tree or shrub on the owner of a hedge, tree or shrub, or on the occupier of land on which a hedge tree or shrub is growing, which overhangs a highway or any other road or footpath to which the public has access so as to endanger or obstruct the passage of vehicles or pedestrians or obstructs or interferes with the view of drivers of vehicles or the light from a public lamp so as to remove the cause of danger, obstruction or interference.	Leader/Executive.	Head of Environment.

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<p>Trees - Dangerous.</p>	<p>1. Where notice is received under s23(2) of the Local Government (Miscellaneous Provisions) Act 1976 that trees are in such condition that they are likely to cause damage to persons or property on the land of the person giving notice:</p> <p>a. To take any steps necessary to make the trees safe (whether by felling or otherwise) where the owner of the land is not known.</p>	<p>1. Planning Committee.</p>	<p>1. Head of Environment.</p>
	<p>b. to serve a notice under s23 (3) of the Act on the owner or occupier of the land on which the trees are growing where the name and address of such or occupier is known requiring the taking of steps to make the trees safe and if the Notice is not complied with to take the steps specified therein and recover such expenses.</p> <p>2. To take any necessary action under s23 – 26 of the Local Government (Miscellaneous Provisions) Act 1976 to secure the removal of dangerous trees and to deal with dangerous excavations.</p> <p>3. To serve notice under s51 of the Worcestershire County Council Act 1969 with regard to the removal of dangerous trees.</p>	<p>2. Planning Committee.</p> <p>3. Planning Committee.</p>	<p>2. Head of Environment.</p> <p>3. Head of Environment.</p>



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<b>HOUSING</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by</b>	<b>Delegated to</b>
Allocation of Accommodation	To approve nominations for housing applicants qualifying under the Council's Allocation Policy.	Executive/Leader.	Strategic Housing Manager.
Asylum Seekers.	To approve the allocation of dwellings through nomination rights to asylum seekers to suit the requirements of individual cases.	Executive/Leader.	Strategic Housing Manager.
Homeless Persons.	To implement the provisions of the Housing Act 1996 and the Homelessness Act 2002.	Executive/Leader.	Strategic Housing Manager.
Housing Waiting List.	To approve nominations and arrangements where necessary to applicants on the Housing Needs Register in accordance with the Council's Allocation Policy.	Executive/Leader.	Strategic Housing Manager.
Secure Tenancies.	<p>To make nominations in respect of secure tenancies to:</p> <ul style="list-style-type: none"> <li>a. applicants who have not been granted tenancies but who have been selected under either sections 193 or 195 of the Housing Act 1996 and qualify for an offer of a secure tenancy from the Housing Register based on the Council's Allocations Scheme date order; and</li> </ul>	Executive/Leader.	Strategic Housing Manager.

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	<p>b. applicants who have been selected under sections 193 or 195 of the Housing Act 1996 and have become non-secure tenants and qualify from the Housing Register to be made secure tenants of their existing property based on the Council's Allocations Scheme date order.</p>		
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### LEGAL, EQUALITIES AND DEMOCRATIC SERVICES

#### 1. Legal

Subject	Detail	Delegated by:	Delegated to:
Appeals.	To appeal on behalf of the Council against decisions of courts, tribunals or other decision-making bodies.	Council.	Principal Solicitor.
Dedications.	To approve dedications of cycleways, bridleways, footways, footpaths and highways where no objections to the proposal have been received.	Executive/Leader.	Head of Legal, Equalities & Democratic Services.
Documents, Orders and Notices (other than contracts falling under the Contracts Procedure Rules).	To sign or seal any document, Order or Notice on behalf of the Council and to serve or receive any documents on behalf of the Council.	Council.	Head of Legal, Equalities & Democratic Services Or Principal Solicitor.
Footpaths.	<p>1. To deal with all matters relating to public footpaths where no objections to the proposal have been received.</p> <p>2. To comment on consultation to correct know errors to the definitive footpath maps and to comment on proposals to stop up or extinguish existing footpaths or to create new footpaths.</p>	<p>1. Planning Committee.</p> <p>2. Planning Committee.</p>	<p>1. Principal Solicitor.</p> <p>2. Head of Planning and Regeneration.</p>
Formation of Companies.	To undertake the formation of limited companies where this is calculated to facilitate or is conducive to the discharge of any of the Council's functions.	Executive/Leader.	Principal Solicitor.

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## PART 6

<p>Legal Advice and Assistance.</p>	<p>To provide legal advice, support and guidance (including the conduct of court proceedings) on behalf of external clients, including local authorities or other bodies to which the Council is empowered by legislation to provide legal advice.</p>	<p>Council/Executive/Leader (as appropriate).</p>	<p>Principal Solicitor.</p>
<p>Low Cost Housing Transactions.</p>	<ol style="list-style-type: none"> <li>1. To administer the Council's Low Cost Housing Scheme, including the making of nominations and the sale of the Council's interest in dwellings.</li> <li>2. To take all necessary action, including the institution of legal proceedings to recover deferred payments from the purchases of low cost homes who are in breach of covenants made in the purchase of these homes.</li> <li>3. To revise fees in relation to low cost housing transactions.</li> </ol>	<p>1. – 3. Executive/Leader.</p>	<ol style="list-style-type: none"> <li>1. Head of Planning.</li> <li>2. Principal Solicitor.</li> <li>3. Head of Legal, Equalities &amp; Democratic Services, Head of Planning and Regeneration and Financial Services Manager in consultation with the relevant Portfolio Holders.</li> </ol>

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## PART 6

<p>Planning Consultants.</p>	<p>1. To engage the services of consultants to advise officers and given evidence at public local enquiries.</p> <p>2. To engage the services of consultants in such cases as may be considered appropriate in appeals on planning and planning enforcement issues.</p>	<p>1. Executive/ Leader.</p> <p>2. Executive/ Leader</p>	<p>1. &amp; 2. Principal Solicitor or Head of Planning and Regeneration.</p>
<p>Police and Crime Panel – budget</p>	<p>To approve the budget for the administration of the West Mercia Police and Crime Panel, providing no financial contribution is sought.</p>	<p>Council</p>	<p>Head of Legal, Equalities and Democratic Services following consultation with the Leader of the Council.</p>

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## PART 6

<p>Proceedings and Prosecutions.</p>	<p>1. To commence any proceedings/prosecutions considered necessary in relation to frauds or attempted frauds against the Council.</p>	<p>1. Council.</p>	<p>1. Principal Solicitor.</p>
	<p>2. To prosecute or defend or to appear in or make arrangement for the Council to be represented in any proceedings before any court or tribunal and to deal with all procedural aspects of Court proceedings.</p>	<p>2. Council.</p>	<p>2. Principal Solicitor.</p>
	<p>3. To authorise Officers to sign statements of Truth, Statutory Declarations and Affidavits on behalf of the Council.</p>	<p>3. Council.</p>	<p>3. Principal Solicitor.</p>
	<p>4. To act as informant in the laying of an information to commence proceedings before the Magistrates Court.</p>	<p>4. Council.</p>	<p>4. Head of Legal, Equalities &amp; Democratic Services.</p>
	<p>5. To sign indictments in appropriate Crown Court proceedings.</p>	<p>5. Council.</p>	<p>5. Head of Legal, Equalities &amp; Democratic Services.</p>

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	<p>6. To sign any document required as part of any court procedure including statutory demands or bankruptcy petitions.</p>	<p>6. Council.</p>	<p>6. Principal Solicitor.</p>
	<p>7. To select and authorise Officers to prosecute or defend on the council's behalf (subject to 9 below).</p>	<p>7. Council.</p>	<p>7. Principal Solicitor.</p>
	<p>8. To select and authorise Officers to appear on the Council's behalf in proceedings before a Magistrates' Court (subject to 9 below).</p>	<p>8. Council</p>	<p>8. Principal Solicitor.</p>
	<p>9. To select and authorise Officers to appear before Magistrates Courts and Tribunals to:</p> <p>(a) represent the Council in the recovery of Council Tax and non-domestic rates monies due to the Council;</p> <p>(b) represent the Council before a Valuation Tribunal in consideration of any appeals which may arise concerning Council Tax and non-domestic rates.</p>	<p>9. Council.</p>	<p>9. Principal Solicitor or Head of Resources.</p>
	<p>10. To prosecute or defend in respect of all environmental health related statutory provisions listed in Appendix EH1 of this scheme.</p>	<p>10. Council.</p>	<p>10. Principal Solicitor.</p>

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## PART 6

	<p>11. To take such action (including but not limited to the institution of criminal or civil proceedings, or the prosecution or defence of proceedings, judicial review and any proceedings under section 222 of the Local Government Act 1972) as is considered appropriate, or to effect the wishes of the Council or to protect the interests of the Council.</p> <p>12. To take all necessary action, including the institution of legal proceedings, to recover deferred payments from the purchasers of low cost homes who are in breach of covenants.</p> <p>13. To institute proceedings relating to contravention of bye-laws.</p> <p>14. To lodge and prosecute applications to, and the defence of, proceedings in any statutory and administrative tribunal in connection with the employment of an Officer or a servant of the Council.</p>	<p>11. Council.</p> <p>12. Council.</p> <p>13. Council.</p> <p>14. Council.</p>	<p>11. Principal Solicitor.</p> <p>12. Principal Solicitor.</p> <p>13. Principal Solicitor.</p> <p>14. Principal Solicitor.</p>
Processions and Assemblies.	To apply to the Secretary of State under section 14A of the Public Order Act 1896 for consent to make an order prohibiting the holding of all trespassory assemblies in the district or a part of it and for such period of time as may be specified in the application.	Executive/Leader.	Head of Legal, Equalities & Democratic Services.



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## PART 6

Regulation of Investigatory Powers Act.	See Under Corporate Delegations	-	-
Road Closures - Temporary.	To determine requests to make Orders under section 21 of the Town and Police Clauses Act 1847.	Executive/Leader.	Principal Solicitor In consultation with Head of Environment.
Seal.	To decide to which documents the common seal should be affixed and to attest the affixing of common seal.	Council.	Principal Solicitor.
Section 106 Agreements - Fees.	To determine the fee to be charged to commercial organizations for legal work undertaken in respect of Section 106 Agreements to which a commercial organization is a party.	Executive/Leader.	Principal Solicitor.
Trespassers and Unauthorised Encampments.	<ol style="list-style-type: none"> <li>1. To take action including the institution of legal proceedings in relation to trespass or unauthorized encampments on any land or premises owned by the Council.</li> <li>2. To take action including the institution of legal proceedings in relation to trespass or unauthorized encampments on any land or premises in the District insofar as the Council is empowered to do so.</li> <li>3. To give directions under section 77 of the Criminal Justice and Public Order Act 1994.</li> </ol>	1. – 4. Executive/Leader.	1. – 4. Principal Solicitor.
	4. To institute proceedings for an Order requiring the removal of any vehicle or other property on land within the District and any person residing in such vehicle in contravention of a direction given under section 77 of that Act.		

# Agenda Item 6

## PART 6

<b>2. Elections</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Fees for Election Duties.	To set within the approved budget the fees for various election duties and to make payments to those employed by the Returning Officer to carry out the duties related to an election.	Electoral Matters Committee.	Returning Officer.
Re-organisation of Community Governance.	To make Orders under section 86 of the Local Government and Public Involvement in Health Act 2007 or any subsequent or amending legislation.	Electoral Matters Committee.	Head of Legal, Equalities and Democratic Services.
Proper Officer.	<p>To be designated:</p> <ul style="list-style-type: none"> <li>a. Electoral Registration Officer under section 8 of the Representation of the People Act 1983;</li> <li>b. Returning Officer for elections of Councillors of the district and for elections for Councillors of parishes within the District under section 53 of the Representation of the People Act 1983.</li> </ul>	Council.	Chief Executive.

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## PART 6

<b>3. Democratic Services</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Programme of Council and Committee meetings.	To agree the programme of Council and Committee meetings.	Council.	Head of Legal, Equalities & Democratic Services in consultation with the Executive/Leader and relevant Portfolio Holder.
Members' Expenses.	<ol style="list-style-type: none"> <li>1. To administer payments made under the Members' Allowance Scheme.</li> <li>2. To approve attendance at and payment of expenses for Members at conferences organised by external bodies in accordance with the Council's agreed policy and criteria.</li> </ol>	<ol style="list-style-type: none"> <li>1. Council.</li> <li>2. Council.</li> </ol>	<ol style="list-style-type: none"> <li>1. Democratic Services Manager.</li> <li>2. Democratic Services Manager.</li> </ol>
Remuneration Panel Members.	To undertake all the administrative arrangements, including short-listing of candidates, in respect of the recruitment of members to the Independent Remuneration Panel.	Council.	Democratic Services Manager.

<b>LEISURE AND CULTURE</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Allotments.	To grant, transfer and accept the termination of allotment tenancies.	Executive/Leader.	Head of Leisure and Culture.
Events on the High Street.	To determine requests to hold events in Bromsgrove High Street in accordance with policy.	Executive/Leader.	Head of Leisure and Culture.
Fairs, Circuses and Special Events.	Within the Budget and Policy Framework to determine arrangements for fairs, circuses and other special events on land or in buildings controlled by the Council.	Executive/Leader.	Head of Leisure and Culture.
Fees and Charges - Sports, Leisure, Community & Cultural services.	<ol style="list-style-type: none"> <li>1. To review and amend the agreed maximum scale of fees and charges for sports and leisure activities as appropriate within the Budget and Policy Framework.</li> <li>2. To vary the charges at the Leisure &amp; Cultural facilities in response to additional competition and market demand.</li> <li>3. To approve and implement promotional activities at all Sports, Leisure &amp; Cultural facilities in order to maximise usage and /or income.</li> </ol>	1. to 3. Executive/Leader.	1. to 3. Head of Leisure and Culture.
National Health Campaigns.	To support regional & nationally recognised health and fitness campaigns in the Council's sports, cultural and leisure facilities by the implementation of discounted sessions/fees as appropriate.	Executive/Leader.	Head of Leisure and Culture.

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## PART 6

Flowers, Bulbs and Trees.	To approve requests from charitable organisations to plant flowers, bulbs and trees in support of the Charity at locations in parks and open spaces.	Executive/Leader.	Head of Leisure and Culture.
Play Areas.	<ol style="list-style-type: none"> <li>1. Day-to-day management of play areas including Health and Safety matters, maintenance and renewals.</li> <li>2. To determine representations/applications (retrospective or otherwise) received which fall within the standards and policies to be applied for play areas within residential estates.</li> </ol>	Executive/Leader.	Head of Leisure and Culture.
Public Open Space.	<ol style="list-style-type: none"> <li>1. To adopt Public Open Space on behalf of the Council which has previously been agreed as part of a Section 106 Agreement.</li> <li>2. To negotiate the adoption of Public Open Space on behalf of the Council which has previously not been part of a Section 106 agreement.</li> </ol>	Executive/Leader.	Head of Leisure and Culture.
Recreational, Sports, Community & Cultural Facilities	<ol style="list-style-type: none"> <li>1. To determine applications for the free use of Council recreational facilities by non-commercial organisations which fall within the Budget and Policy Framework or other policies.</li> <li>2. To determine applications for the use of the Recreation Ground, Bromsgrove and the Boleyn Road Recreation Ground Frankley by fun fairs which fall within established</li> </ol>		1. - 3. Head of Leisure and Culture.

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	<p>policy.</p> <p>3. To determine applications for the use of non-commercial events of Council owned or managed recreational and sports facilities and/or parks and open spaces.</p> <p>4. To determine applications for the bookings of the Council's recreational and sports facilities.</p> <p>5. To determine applications from partners organisations relating to contract or SLA arrangement in line with relevant agreement &amp; Council Policy frameworks.</p> <p>6. To determine dates for the closure of recreational facilities for Bank Holidays, Christmas and New Year Holidays.</p>		<p>4. Head of Leisure and Culture except that the agreement of the relevant Portfolio Holder is required to agree to any bookings by political or religious groups.</p> <p>5. Head of Leisure and Culture.</p> <p>6. Head of Leisure and Culture.</p>
<p>Recreational Land.</p>	<p>To decide on arrangements for the access, usage &amp; leasing of recreational land or facilities to parish Councils and other organisations and to determine any applications for consents required under such leases.</p>	<p>Executive/Leader.</p>	<p>Executive Director - Finance and Corporate Resources and Head of Leisure and Culture.</p>
<p>Recreational Provision.</p>	<p>Within the Budget and Policy Framework to make decisions on recreational provision which is being made in partnership with other organisations.</p>	<p>Cabinet.</p>	<p>Head of Leisure and Culture.</p>

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Sanders Park & Open Spaces– Use by Hot Air Balloons.	To determine applications for the use of Sanders Park and Open Spaces for hot air balloon flights.	Cabinet.	Head of Leisure and Culture.
Playing Pitches.	To grant hire agreements for the use of such facilities in line with budget and Policy frameworks.	Cabinet.	Head of Leisure and Culture.

### PLANNING AND REGENERATION

#### 1. Assets of Community Value

Subject	Detail	Delegated by:	Delegated to:
Confirmation of valid application	To check validity of nominations of an asset of community value and reject if not appropriate or incomplete.	Cabinet.	Head of Planning and Regeneration
Consultation	To arrange consultation on valid nominations of an asset; consultees to include Ward members.	Cabinet.	Head of Planning and Regeneration
Recommend nomination	To recommend to Cabinet whether or not a nomination should be accepted and included on the list of Assets of Community Value.	Cabinet.	Head of Planning and Regeneration
Review of decision	To review a decision to list a property as an Asset of Community Value.	Cabinet.	Executive Director
Assess compensation claims	To assess claims for compensation.	Cabinet.	Head of Planning and Regeneration.
Review compensation claims	To review and decide initial decisions about compensation.	Cabinet.	Executive Director



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## PART 6

<b>2. Building Control</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Building Regulations - Applications.	To determine applications under the Building Regulations 1991 and 2000.	Council.	Head of Planning and Regeneration-
Building Regulation - Charges.	To review and determine the scale of charges in accordance with the Building Act 1984 and the Building (Local Authority Charges) Regulations 1998.	Council.	Head of Planning and Regeneration.
Dangerous Buildings.	To take such action as is considered necessary under sections 77 and 78 of the Building Act 1984 when the condition of any building is such as to render it necessary to require the owner to make it safe for the Council to take action to remove the danger, as a matter of urgency.	Council.	Head of Planning and Regeneration in consultation with the relevant Portfolio Holder.
Demolition.	To determine applications for demolition under sections 80 and 81 of the Building Act 1984.	Council.	Head of Planning and Regeneration.
Ground Movement.	To take such action as may be necessary to deal with any events of structural distress and ground movement affecting properties in order to safeguard the public interest.	Council.	Head of Planning and Regeneration.
Repairs.	To carry out essential repairs to dwellings in the event of non-compliance with Statutory Notices served by the Council pursuant to section 26 of the Public Health Act 1961 and to take any action as may be necessary for the recovery of costs incurred.	Council.	Head of Planning and Regeneration.

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## PART 6

<b>3. Development Control</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Prior Notification Procedure.	To require further details from the applicant when an application for prior determination is submitted in respect of permitted development for agricultural, forestry and telecommunications development.	Planning Committee.	Head of Planning and Regeneration.
Article 4 Directions.	To make Directions under Article 4(1) of the Town & Country Planning (General Permitted Development) Order 1995.	Planning Committee.	Head of Planning and Regeneration.
Certificate of Lawfulness.	To determine applications for Certificates of Lawfulness of Proposed Use of Development or Certificates of Existing Use of Development under sections 191 and 192 of the Town & Country Planning Act 1990.	Planning Committee.	Head of Planning and Regeneration.
Development Proposals by other Public Authorities.	To comment on proposals for development submitted by Worcestershire County Council and other public authorities.	Council.	Head of Planning and Regeneration
Entry of Premises - Proper Officer.	To be designated as the Proper Officer for the purposes of authorising persons to enter onto land in connections with the exercise of functions under sections 196A, 196B, 214B, 324 and 325 of the Town & Country Planning Act 1990.	Planning Committee.	Head of Planning and Regeneration.
Inspection Notices.	To serve notices of intended inspection under sections 196A, 196B, 214B, 324 and 325 of the Town and Country Planning Act 1990.	Planning Committee.	Principal Solicitor.

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Landscaping Schemes.	To approve landscaping/tree planting schemes submitted as a result of planning permissions subject to such conditions as may be appropriate.	Planning Committee.	Head of Planning and Regeneration.
Minor Amendments.	To determine applications for minor amendments to approved plans.	Planning Committee.	Head of Planning and Regeneration.
Planning Agreements and Unilateral Undertakings.	To negotiate with developers and to approve the amounts to be received by the Council as financial contributions in lieu of on-site provision of affordable housing or recreational facilities/open space and as contributions towards the costs of highways works, educational provision or any other kind of provision by the Council or County Council.	Planning Committee.	Head of Planning and Regeneration.
Planning Agreements and Unilateral Undertakings.	To negotiate the legal, drafting and all terms of the agreements and undertaking, except for those which involve planning gain, restriction of the development or use of the land, obligations relating to the land and financial contributions.	Planning Committee.	Principal Solicitor.
	To execute and complete planning agreements.	Planning Committee.	Principal Solicitor.
Planning Agreements and Unilateral Undertakings.	To determine applications or requests for discharge or modification of planning agreements or undertakings (whether by approval or further agreement) unless it includes the following:  a. Deletion, addition or variation of one or more of the heads of terms originally approved by the Planning Committee. b. Significant change in the overall area of land to	Planning Committee.	Head of Planning and Regeneration.

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	<p>transferred to the Council.</p> <p>c. Significant change in financial contributions to be provided to the Council (except where this is as a result of a subsequent decision by the Planning Committee).</p> <p>d. Significant change in the any obligation to be performed by the developer or any restriction on the developer or the development or use in land.</p> <p>e. A member makes a written request for a case to be considered by the Planning Committee.</p>		
<p>Planning Agreements and Unilateral Undertakings.</p>	<p>To approve the enforcement of a planning obligation.</p>	<p>Planning Committee.</p>	<p>Head of Planning and Regeneration.</p>

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<p>Planning Applications.</p>	<p>1. To determine:</p> <ul style="list-style-type: none"> <li>a. applications for dwelling houses where the number of houses to be provided is 10 or more.</li> <li>b. applications for the provision of a building or buildings with a floor space of 1000 square metres or more.</li> <li>c. other applications which have been called-in by a member for determination by Planning Committee provided that the application has been called-in in accordance with the procedure set out in paragraphs 6 - 7 of the introductory paragraphs to the Scheme of Delegations.</li> <li>d. applications by serving Officers and members.</li> </ul>	<p>1. Council.</p>	<p>1. Planning Committee.</p>
	<ul style="list-style-type: none"> <li>e. applications by the Council or by Council Service Areas or Council departments.</li> <li>f. The Head of Planning and Regeneration considers that the application should be considered by the Planning Committee.</li> </ul> <p>2. To determine all other planning applications.</p> <p>NB: For the avoidance of doubt the term 'planning applications' include</p>	<p>2. Planning Committee.</p>	<p>2. Head of Planning and Regeneration.</p>

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	<p>applications to vary or remove planning conditions attached to a planning permission, applications for development which has already been carried out and applications to extend the time for implementing planning permissions.</p>		
<p>Planning Applications.</p>	<p>To impose conditions on applications (for planning permission, listed building consent or Conservation area consent) which have been approved by the Planning Committee contrary to the Planning Officer's recommendation where such conditions are:</p> <ul style="list-style-type: none"> <li>a. Necessary.</li> <li>b. Relevant to planning.</li> <li>c. Relevant to the development which has been applied for.</li> <li>d. Enforceable.</li> <li>e. precise and</li> <li>f. Reasonable in all other aspects.</li> </ul>	<p>Planning Committee.</p>	<p>Head of Planning and Regeneration.</p>
<p>Listed Building and Conservation Area Consent.</p>	<p>To determine applications for listed building consent and Conservation Area consent unless they are:</p> <ul style="list-style-type: none"> <li>a. Applications for dwelling houses where the number of houses to be provided is 10 or more.</li> <li>b. Applications for the provision of a building or buildings with a floor space of 1000 square metres or more.</li> <li>c. Other applications which</li> </ul>	<p>Planning Committee.</p>	<p>Head of Planning and Regeneration.</p>

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	<p>have been called-in by a member for determination by Planning Committee provided that the application has been called-in in accordance with the procedure set out in paragraphs 6 - 7 of the introductory paragraphs to the Scheme of Delegations.</p> <p>d. Applications by serving Officers and members.</p> <p>e. Applications by the Council or by Council Service Areas or Council departments.</p> <p>f. The Head of Planning and Regeneration considers that the application should be considered by the Planning Committee.</p>		
Appeals.	To take all action to defend the Council where there has been an appeal against a refusal to grant planning permission, listed building consent or conservation area consent.	Planning Committee.	Head of Planning and Regeneration in consultation with the Principal Solicitor.
Revocation and modification.	To revoke or modify planning permissions, listed building or conservation area consent under section 97 of the Town and Country Planning Act 1990 and sections 23 and 74 of the Planning (Listed Buildings & Conservation Area Acts) 1990.	Planning Committee.	Head of Planning and Regeneration.
Completion Notice.	To authorise and serve a completion notices.	Planning Committee.	Head of Planning and Regeneration.

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Declining Planning Applications.	To decide to decline to determine application on the grounds set out in sections 70A and 70B of the Town and Country Planning Act 1990 and sections 81A and 81B of the Planning (Listed Buildings & Conservation Area Acts) 1990.	Planning Committee.	Head of Planning and Regeneration.
Advertisements.	1. To determine applications for express advertisement consent.	1. Planning Committee.	1. Head of Planning and Regeneration.



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## PART 6

<b>4. Economic Development</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Business Start - Up Grants.	To approve Business Start-Up Grants of up to £1,000 per individual applications.	Executive/Leader.	Head of Planning and Regeneration.
Farmers' Markets.	To determine applications for consent for Farmers' Markets.	Executive/Leader.	Head of Planning and Regeneration in consultation with the Executive/ Leader and Deputy Executive/Leader.
Financial Assistance to Small Businesses.	<ol style="list-style-type: none"> <li>1. To determine applications for grants of up to £500.</li> <li>2. To determine applications for grants of between £500 and £1,000.</li> </ol>	<ol style="list-style-type: none"> <li>1. Executive/ Leader.</li> <li>2. Executive/ Leader.</li> </ol>	<ol style="list-style-type: none"> <li>1. Head of Planning and Regeneration.</li> <li>2. Head of Planning and Regeneration in consultation with the relevant Portfolio Holder.</li> </ol>
Markets.	<ol style="list-style-type: none"> <li>1. To approve events to be held.</li> <li>2. To let stalls.</li> </ol>	<ol style="list-style-type: none"> <li>1. Executive/ Leader.</li> <li>2. Executive/ Leader.</li> </ol>	<ol style="list-style-type: none"> <li>1. Head of Planning and Regeneration.</li> <li>2. Head of Planning and Regeneration.</li> </ol>

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<b>5. Heritage</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Local Heritage List	<ol style="list-style-type: none"><li>1. To administer the Local Heritage List for Bromsgrove;</li><li>2. To approve draft selection criteria and final lists</li></ol>	Council	<ol style="list-style-type: none"><li>1. Head of Planning and Regeneration</li><li>2. Head of Planning and Regeneration following consultation with the Portfolio Holder for Planning</li></ol>

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<b>5. Neighbourhood Planning</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Designation of Neighbourhood Area	To decide whether to accept and designate a Neighbourhood Area	Council	Head of Planning and Regeneration following consultation with the Ward Member(s) for the area affected and the Portfolio holder for Planning.
Designation of a Neighbourhood Forum	To decide whether to designate a community organisation as a Neighbourhood Forum		Head of Planning and Regeneration following consultation with the Ward Member(s) for the area affected and the Portfolio holder for Planning.
Assessing the validity and acceptance of plans	To decide the validity and acceptance of submissions for a Neighbourhood Development Plan or a Neighbourhood Development Order, including assessing the compliance of the Plan/Order with other relevant policies and legislation.		Head of Planning and Regeneration following consultation with the Ward Member(s) for the area affected and the Portfolio holder for Planning.
Repeat proposals	To decide whether to decline to accept repeat proposals for Neighbourhood Development Plans or Neighbourhood Development Orders		Head of Planning and Regeneration following consultation with the Ward Member(s) for the area affected and the Portfolio holder for Planning.
Appointment of Examiner	To appoint an Examiner for a Neighbourhood Development Plan or Order		Head of Planning and Regeneration following consultation with the Ward Member(s) for the area affected and the Portfolio holder for Planning.

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## PART 6

<b>6. Planning Enforcement</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Article 4 Directions.	To make Directions under Article 4(1) of the Town & Country Planning (General Permitted Development) Order 1995 <sup>1</sup> .	Planning Committee.	Head of Planning and Regeneration.
Breach of Condition Notices.	To authorise the issue and service of Breach of Condition Notices under section 187A of the Town & Country Planning Act 1990 <sup>2</sup> .	Planning Committee.	Head of Planning and Regeneration in consultation with the Principal Solicitor.
Cautions.	To administer formal cautions to offenders as an alternative to Court proceedings.	Planning Committee.	Officers authorised in writing by the Head of Planning and Regeneration.
Enforcement Notices.	To authorise the issue and service of Enforcement Notices under section 172 of the Town & Country Planning Act 1990.	Planning Committee.	Head of Planning and Regeneration.
Entry of Premises - Proper Officer.	To be designated as the Proper Officer for the purposes of authorising persons to enter onto land in connections with the exercise of functions under sections 196A and 196B, 214B, 324 and 325 of the Town & Country Planning Act 1990.	Planning Committee.	Head of Planning and Regeneration.
Inspection Notices.	To serve notices of intended inspection under sections 196A, 196B, 214B, 324 and 325 of the Town and Country Planning Act 1990.	Planning Committee.	Principal Solicitor.
Injunctions.	To seek injunctions in the High Court under Section 187B of the Town & Country Planning Act 1990 or any other relevant statutory power restraining breaches of planning control <sup>3</sup> .	Planning Committee.	Head of Legal, Equalities and Democratic Services or Principal Solicitor in consultation with, where practicable, the Chairman of Planning Committee.

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## PART 6

<p>Listed Buildings - Enforcement Notices.</p>	<ol style="list-style-type: none"> <li>1. To authorise the issue and service of Listed Building Enforcement Notices under section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990.</li> <li>2. To authorise the issue and service of Listed Building Enforcement Notices under section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in circumstances in cases of urgency when, in the opinion of Head of Planning &amp; Environment Services, reporting to Planning Committee is impractical.</li> </ol>	<ol style="list-style-type: none"> <li>1. Council.</li> <li>2. Planning Committee.</li> </ol>	<ol style="list-style-type: none"> <li>1. Planning Committee.</li> <li>2. Head of Planning and Regeneration.</li> </ol>
<p>Planning Contravention Notices.</p>	<ol style="list-style-type: none"> <li>1. To serve Planning Contravention Notices under section 171C of the Town &amp; Country Planning Act 1990 (and any other statutory power which enables the Council to require information about land).</li> <li>2. To respond to offers to apply for planning permission or to refrain from carrying out any operations or activities following the service of a Planning Contravention Notice.</li> </ol>	<ol style="list-style-type: none"> <li>1. Planning Committee.</li> <li>2. Planning Committee.</li> </ol>	<ol style="list-style-type: none"> <li>1. Head of Planning and Regeneration.</li> <li>2. Head of Planning and Regeneration.</li> </ol>
<p>Stop Notices.</p>	<ol style="list-style-type: none"> <li>1. To authorise the issue and service of Stop Notices under section 183 of the Town &amp; Country Planning Act 1990.</li> </ol>	<ol style="list-style-type: none"> <li>1. Council.</li> </ol>	<ol style="list-style-type: none"> <li>1. Planning Committee.</li> </ol>

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	2. To authorise the issue and service of Stop Notices under section 183 of the Town & Country Planning Act 1990 in cases of urgency when, in the opinion of Head of Planning & Environment Services, reporting to Planning Committee is impractical.	2. Planning Committee.	2. Head of Planning and Regeneration in consultation with the Principal Solicitor.
Temporary Stop Notice.	The issue and service Temporary Stop Notices under ss171E-H of the Town & Country Planning Act 1990.	Planning Committee.	Head of Planning and Regeneration in consultation with the Principal Solicitor.
Proper Maintenance of Land.	<p>1. To authorise the issue of notices under section 215 of the Town and Country Planning Act 1990.</p> <p>2. To serve notices under section 215 of the Town and Country Planning Act 1990.</p>	Planning Committee.	<p>1. Head of Planning and Regeneration.</p> <p>2. Principal Solicitor.</p>
Appeals.	To take all action to defend the Council where there has been an appeal against a refusal to grant planning permission, listed building consent or conservation area consent.	Planning Committee.	Head of Planning and Regeneration in consultation with the Principal Solicitor.
Advertisement Controls.	<p>1. To authorise the service of an advertisement discontinuance notice.</p> <p>2. To take action for the control of advertisements (but not including the service of a discontinuance notice) in the interest of amenity and public safety under the Town and Country Planning (Control of Advertisements) Regulations 2007.</p>	<p>1. Council.</p> <p>2. Planning Committee.</p>	<p>1. Planning Committee.</p> <p>2. Head of Planning and Regeneration in consultation with the Principal Solicitor.</p>

<b>7. Strategic Planning</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Inspection Notices.	To serve notices of intended inspection under sections 196A, 196B, 214B, 324 and 325 of the Town and Country Planning Act 1990.	Planning Committee.	Principal Solicitor.
Local Plan Enquiry.	To provide direction on behalf of the Council to any Local Plan/Local Development Framework Inquiry on policy issues and site details.	Council	Head of Planning and Regeneration.
Rights of Entry - Proper Officer.	To be designated as the Proper Officer for the purposes of authorising persons to enter onto land in connections with the exercise of functions under section 324 and 325 of the Town & Country Planning Act 1990.	Planning Committee.	Head of Planning and Regeneration.

**Note: All delegations to Head of Planning and Regeneration Services are to include any designated deputy, such designation to be in writing.**

## **REGULATORY SERVICES**

### **1. LICENSING**

#### **HEAD OF REGULATORY SERVICES (WORCESTERSHIRE REGULATORY SERVICES)**

To determine applications made for licences of premises for acupuncture, tattooing, ear piecing and electrolysis.

To determine applications for the registration of animal trainers and exhibitors.

To be responsible for inspections of premises are undertaken to ensure compliance with animal welfare licensing legislation and to engage veterinary surgeons for these purposes where necessary.

To authorise officers for the purpose of Part II of the Local Government (Miscellaneous Provisions) Act 1976.

To be designated as “Proper Officer” for the provisions of the Breeding of Dogs Act 1973 and to act on behalf of the Council in respect of the provisions of the Act and to engage veterinary surgeons for the purpose of inspecting premises under the Act.

To determine applications for house to house and street collections.

To respond to applications where the Council is a responsible authority or consultee.

To be designated as “Proper Officer” for the purposes of the administration of the Dangerous Wild Animals Act 1976 and to be authorised to carry out all appropriate functions including the entering of premises.

To grant consents for uncontested Street Amenity Consents under the Highways Act 1980

To authorise the entry of premises for the purpose of enforcing the provisions of the following legislation on behalf of the Council:

- Animal Boarding Establishments Act 1963.
- Breeding of Dogs Act 1973.
- Gambling Act 2005.
- Licensing Act 2003.
- Local Government (Miscellaneous Provisions) Acts 1976 and 1982.
- Town Police Clauses Act 1847.
- Zoo Licensing Act 1981.



### **To determine all matters under the Gambling Act 2005 except:**

- Determination of fee levels.
- Applications for aviations to premises licences, provisional statements, club gaming/club machine permits and other permits where representations have been received and not withdrawn.
- Applications for transfer of premises licences where representations have been made by the Gambling Commission.
- Review of premises licenses.
- Decision to give a counter notice to a temporary use notice.
- Refusal of applications for registration by societies wishing to promote lotteries.

### **Hackney Carriages and Private Hire Operators', Vehicles and Drivers'**

### **To determine all matters in relation to Hackney Carriage Drivers and Private Hire Operators, Vehicles and Drivers except:**

- Determination of applications where the applicant does not meet the Council's application criteria.
- Suspension or revocation of a licence, unless suspension is required with immediate effect because there are grounds to show that the driver or operator has ceased to meet the Council's requirements as to medical condition or in any case where the holder has been convicted of an offence involving violence, indecency or the misuse/trafficking of drugs, or for any other material reason, subject to a report being made to the next meeting of the Licensing Committee.
- Determination of an application where the vehicle does not meet the Council's criteria as to mechanical and general condition and to determine how many passengers may be carried, unless suspension is required with immediate effect because there are grounds to show that the vehicle is not fit for purpose in accordance with section 60 or 68 of the Local Government (Miscellaneous Provisions) Act 1976, subject to a report being made to the next meeting of the Licensing Committee.
- Revocation of a licence where the applicant knowingly or recklessly gave false information or failed to reveal a material particular on his application.
- Revisions to the Council's Table of Hackney Carriage Fares.
- Appointment of Hackney Carriage stands/revisions to existing Hackney Carriage stands.
- Applications for Operator's licenses where the applicant has not met the Council's criteria in respect of character.

### **To suspend Premises and Club Premises Licences following non payment of fees under sections 55A and 92A of the Licensing Act 2003 (as amended)**

### **To determine all matters under the Licensing Act except:**

- Application to vary designated premises supervisors if representations are made.
- Applications for personal licences, premises licences/ club premises licences and provisional statements where representations have been received.
- Applications for Interim Authorities if a police representation is made.

- Application to vary premises licences/ club premises certificates if representations are made.
- Applications to review premises/ club premises certificate.
- Any interim steps following an application for an expedited review.
- Determination of Temporary Event Notices where representations have been **made** by the Police.
- Applications to transfer premises licences if representations are made.
- Applications for minor variations if representations are made by the Police.

### **To determine all matters relating to Market and Street Trading except:**

- Designation of consent streets and non consent streets under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- Deciding the Council's policy in relation to the issue of street trading consents.

### **To determine applications for licences for riding establishments**

### **To determine applications for Zoo Licensing**

### **To carry out any other function or responsibility in relation to the legislation listed at RS1 not specifically referred to above**

#### **RS1**

- Animal Boarding Establishments Act 1963.
- Animal Welfare Act 2006.
- Breeding and Sale of Dogs (Welfare) Act 2006.
- Breeding of Dogs Act 1973 and 1991.
- Dangerous Wild Animals Act 1976.
- Gambling Act 2005.
- Licensing Act 2003.
- Local Government (Miscellaneous provisions) Acts 1976 and 1982.
- Pet Animals Act 1951.
- Police Factories Act (miscellaneous provisions) Act 1916.
- Riding establishments Acts 1964 and 1970.
- Scrap Metal Dealers Act 2013.
- Vehicle Crime Act 2001 - Section 4 (13) - Motor Salvage Operators.
- Town Police Clauses Act 1847.
- Video Recordings Act 1984 and 1993.
- Licensing Act 2003.
- Hackney carriage licensing.
- Private Hire (including driver, vehicle and operator) licensing.
- Control of sex establishments (including lap dancing and sexual entertainment venues).
- Street Trading.
- Street amenity licences.
- Zoo Licensing Act 1981.

## **2. ENVIRONMENTAL HEALTH**

### **HEAD OF REGULATORY SERVICES (WORCESTERSHIRE REGULATORY SERVICES)**

**(i) In accordance with the legal agreement for Regulatory Services Shared Service, the Council has delegated to the Head of Service of Worcestershire Regulatory Services all the duties and functions listed below arising out of the legislation set out in Appendix RS 2.**

- (a) Appointment of Inspectors, Authorised Officers or similar designated persons.
- (b) Undertaking inspections and investigation of complaints.
- (c) Signing and service of notices.
- (d) Signing and issuing, revoking and varying, any licence, permit, order or other document.
- (e) Executing, or arranging for the execution of, works in default.
- (f) Purchasing or otherwise procuring samples, seize equipment, goods and animals.
- (g) The exercise of powers of entry.
- (h) The engagement of specialist advisors/contractors to support/supplement service activity.
- (i) The institution of legal proceedings (in consultation with the Head of Legal Services of the Relevant Authority).
- (j) The obtaining of warrants of entry.

**(ii) The Head of Service has authority to delegate further, in writing, all or any of their delegated functions to other officers, and may authorise certain of those officers to further delegate to officers under their management or control.**

#### **RS2**

Accommodation Agencies Act 1953.  
Administration of Justice Act 1970 (Section 40).  
Agriculture (Safety, Health & Welfare Provisions) Act 1956.  
Agriculture Act 1970.  
Agriculture Produce (Grading & Marking) Acts 1928 & 1931.  
Animal Boarding Establishments Act 1963.  
Animal By-Products Regulations 2005.  
Animal Health & Welfare Act 1984.  
Animal Health Act 1981.  
Animal Health Act 2002.  
Animal Welfare Act 2006.  
Animals and Animal Products (Import & Export) (England) Regs 2006.  
Anti-Social Behaviour Act 2003.  
Avian Influenza (Preventative Measures) (England) Regulations 2006.  
Avian Influenza (Vaccination) (England) Regulations 2006.  
Biofuel (Labelling) Regulations 2004.

Bluetongue Regulations 2008.  
Breeding and Sale of Dogs (Welfare) Act 1999.  
Breeding of Dogs Act 1973 and 1991.  
Building Act 1984.  
Business Protection from Misleading Marketing Regulations 2008.  
Cancellation of Contracts made in a Consumers House or Place of Work etc Regulations 2008.  
Caravan Sites Act 1968.  
Caravan Sites and Control of Development Act 1960.  
Cat and Dog Fur (Control of Import, Export and Placing on Market) Regulation 2008.  
Cattle Identification Regs 2007.  
Charities Act 1993.  
Children & Young Persons (Protection from Tobacco) Act 1991.  
Children & Young Persons Act 1933.  
Chronically Sick and Disabled Persons Act 1970.  
Cinemas Act 1985.  
Civic Amenities Act 1967.  
Civil Defence Act 1948 and Regulations made thereunder.  
Clean Air Act 1993.  
Clean Neighbourhoods and Environment Act 2005.  
Construction Products Regulations 1991.  
Consumer Credit Act 1974.  
Consumer Protection (Distance Selling) Regulations 2000.  
Consumer Protection Act 1987.  
Consumer Protection from Unfair Trading Regulations 2008.  
Control of Pollution Act 1974.  
Copyright, Designs and Patents Act 1988.  
Criminal Justice and Immigration Act 2008.  
Criminal Justice and Public Order Act 1994.  
Crystal Glass (Descriptions) Regs 1973.  
Dangerous Wild Animals Act 1976.  
Deer Act 1991.  
Defective Premises Act 1972.  
Development of Tourism Act 1969 (Section 18).  
Disabled Persons Act 1981.  
Distance Selling Regulations 2000.  
Ecodesign for Energy-Using Product Regulations 2007.  
Education Reform Act 1988.  
Eggs (Marketing Standards) Regulations 2005.  
Eggs and Chicks (England) Regulations 2008.  
Electromagnetic Compatibility Regs 1992.  
Electro-medical Equipment (EEC Requirements) Regs 1988.  
Energy Act 1976 (Section 18).  
Energy Conservation Act 1981 (Section 20).  
Energy Efficiency (Refrigerators and Freezers) Regs 1997.  
Energy Information (Combined Washer-driers) Regs 1997.  
Energy Information (Dishwashers) Regs 1999.  
Energy Information (Household Air Conditioners) (No.2) Regulations 2005.  
Energy Information (Household Electric Ovens) Regulations 2003.  
Energy Information (Household Refrigerators and Freezers) Regs 2004.  
Energy Information (Lamps) Regs 1999.

Energy Information (Tumble Driers) Regs 1996.  
Energy Information (Washing Machines) Regs 1996.  
Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007.  
Enterprise Act 2002.  
Environment Act 1995.  
Environmental Protection (Controls on Substances that Deplete the Ozone Layer) Regs 2002.  
Environmental Protection Act 1990.  
Estate Agents Act 1979.  
Explosives Act 1875.  
Export Restrictions (Foot and Mouth Disease) Regulations 2007.  
Factories Act 1961.  
Fair Trading Act 1973.  
Farm and Garden Chemicals Act 1967.  
Feed (Hygiene and Enforcement) (England) Regulations 2005.  
Firework Act 2003.  
Firework Regulations 2004.  
Food & Environmental Protection Act 1985.  
Food (Jelly Mini-Cups) (Emergency Control) (England) Regulations 2009.  
Food (Suspension of the use of E128 Red 2G as food colour) (England) Regulations 2007.  
Food Act 1984.  
Food Hygiene (England) Regulations 2006.  
Food of Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) Regs 2009.  
Food Safety Act 1990.  
Food Standards Act 1999.  
Forgery and Counterfeiting Act 1981 Part 1.  
Fraud Act 2006.  
Game Act 1831.  
General Food Regulations 2004.  
General Product Safety Regulations 2005.  
Guard Dogs Act 1975.  
Hallmarking Act 1973.  
Health & Safety at Work etc Act 1974.  
Health Act 2006.  
Highways Act 1980.  
Home Energy Conservation Act 1995.  
Home Information Pack Regulations 2007.  
Home Safety Act 1961.  
Horse Passports Regulations 2009.  
House to House Collections Act 1939.  
Housing & Planning Act 1986.  
Housing Act 1980, 1985, 2004.  
Hypnotism Act 1952.  
Imported Food Regulations 1997.  
Imported Food Regulations 2007.  
Intoxicating Substances (Supply) Act 1985.  
Land Drainage Acts 1976 & 1991.  
Litter Act 1983.  
Local Government & Housing Act 1989.

Local Government (Miscellaneous Provisions) Acts 1976 & 1982.  
Manufacturing and Storage of Explosives Regulations 2005.  
Materials and Articles in Contact with Food England Regs 2007.  
Measuring Instruments (Automatic Catchweighers) Regulations 2006.  
Measuring Instruments (Automatic Discontinuous Totalisers) Regulations 2006.  
Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006.  
Measuring Instruments (Beltweighers) Regulations 2006.  
Measuring Instruments (Capacity Serving Measures) Regulations 2006.  
Measuring Instruments (Cold Water Meters) Regulations 2006.  
Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006.  
Measuring Instruments (Liquid Fuel delivered from Road Tankers) Regulations 2006.  
Measuring Instruments (Material Measures of Length) Regulations 2006.  
Measuring Instruments (Non prescribed Instruments) Regulations 2006.  
Measuring Instruments (Rail - Weighbridges) Regulations 2006.  
Medicines Act 1968.  
Mobile Homes Acts 1975 & 1993.  
Motor Cycle Noise Act 1987.  
National Assistance Act 1948 Sec 47.  
Natural Mineral Water, Spring Water & Bottled Water England Regs 1999.  
Noise & Statutory Nuisance Act 1993.  
Noise Act 1996.  
Non-Automatic Weighing Instruments (EEC Requirements) Regs 2000.  
Offensive Weapons Act 1996.  
Offices, Shops & Railway Premises Act 1963.  
Official Controls (Animal Feed and Food) (England) Regs 2006.  
Official Feed & Food Controls (England) Regs 2007.  
Olive Oil (Marketing Standards) Regs 2003.  
Olympic Symbol etc. (Protection) Act 1995.  
Organic Product Regulations 2009.  
Package Travel, Package Holidays & Package Tours Regs 1992.  
Packaging (Essential Requirements) Regs 2003.  
Party Wall Act 1966.  
Performing Animals (Regulation) Act 1925.  
Personal Protective Equipment Regulations 2002.  
Pet Animals Act 1951.  
Petroleum (Transfer of Licences) Act 1936.  
Petroleum Consolidation Act 1928.  
Planning (Hazardous substances) Act 1990.  
Plastic Materials and Articles in Contact with Food England Regs 2009.  
Poisons Act 1972.  
Police, Factories etc (Miscellaneous Provisions) Act 1916.  
Pollution Prevention and Control Act 1999.  
Poultry Meat (Water Content) Regs 1984.  
Prevention of Damage by Pests Act 1949.  
Prices Acts 1974 and 1975.  
Private Security Industries Act 2001.  
Proceeds of Crime Act 2002.  
Products of Animal Origin (Disease Control) (England) Regulations 2008.  
Products of Animal Origin (Import and Export) Regulations 1996 (as amended).  
Products of Animal Origin (Third Country Imports) (England) Regulations 2006.

Property Mis-descriptions Act 1991.  
Protection of Animals Act 1911 as amended.  
Protection of Children (Tobacco) Act 1986.  
Public Health (Control of Disease) Act 1984.  
Public Health Acts (Amendment) Act 1907.  
Public Health Acts 1875, 1925, 1936 & 1961.  
Quick Frozen Food Stuffs (England) Regulations 2007.  
Radio Equipment and Telecommunications Terminal Equipment Regs 2000.  
REACH Enforcement Regulations 2008.  
Refuse Disposal (Amenity) Act 1978.  
Regulation (EC) No. 178/2002.  
Regulation (EC) No. 852/2004.  
Regulation (EC) No. 853/2004.  
Regulation (EC) No. 854/2004.  
Regulation (EC) No. 2073/2005.  
Rent Act 1977.  
Rice Products (Restrictions on First Packaging on the Market) (England) Regs 2006.  
Riding Establishments Acts 1964 & 1970.  
Road Traffic (Consequential Provisions) Act 1988.  
Road Traffic (Foreign Vehicles) Act 1972.  
Road Traffic Acts 1988 and 1991.  
Road Traffic Offenders Act 1988.  
Road Traffic Regulation Act 1984 (Section 5).  
Safety of Sports Grounds Act 1975.  
Sale of Goods Act 1979.  
Scotch Whisky Act 1988.  
Scrap Metal Dealers Act 2013.  
Simple Pressure Vessels (Safety) Regs 1991.  
Slaughter of Poultry Act 1967.  
Slaughterhouses Act 1974.  
Smokefree (Exemptions and Vehicles) Regulations 2007.  
Smokefree (Penalties and Discounted Amounts) Regulations 2007.  
Smoke-free (Premises and Enforcement) Regulations 2006.  
Smokefree (Signs) Regulations 2007.  
Smokefree (Vehicle Operators and Penalty Notices) Regulations 2007.  
Sunday Trading Act 1994.  
Supply of Goods and Services Act 1982.  
Supply of Machinery (Safety) Regs 1992.  
Telecommunications Act 1984.  
Textile Products (Indications of Fibre Content) Regs 1986.  
Theft Acts 1968 and 1978.  
Timeshare Act 1992.  
Town Police Clauses Act 1847.  
Trade Descriptions Act 1968.  
Trade Marks Act 1994.  
Trading Standards - Agricultural (Miscellaneous Provisions) Act 1968.  
Transmissible Spongiform Encephalopathies (England) Regulations 2008.  
Unfair Terms in Consumer Contracts Regulations 1999.  
Unsolicited Goods and Services Acts 1971 and 1975.  
Video Recordings Acts 1984 and 1993.  
Warm Homes & Energy Conservation Act 2000.

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Water Acts 1973-2003.  
Water Industry Act 1991.  
Water Industry Act 1999.  
Weeds Act 1959.  
Weights and Measures Act 1985.  
Wildlife and Countryside Act 1981.  
Wine Regulations 2009.  
Worcester City Act 1985.  
Zoo Licensing Act 1981.



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## PART 6

### RESOURCES

#### 1. Finance

Subject	Detail	Delegated by:	Delegated to:
Capital Programme.	To place with private firms any projects within the Capital Programme which it is not possible to undertake within the Council.	Executive/Leader.	Heads of Service in consultation with the Procurement Manager.
Car Loans.	To deal with all applications for car loans including requests for the transfer of outstanding balances in the case of new appointments.	Executive/Leader.	Financial Services Manager.
Corporate Risk Register.	To monitor, review and update the corporate and departmental risk registers.	Executive/Leader.	Executive Director Finance and Resources in consultation with the Audit Board and the relevant Portfolio Holder.
Debts.	To write off irrecoverable debts: a. up to the value of £2,500. b. over £2,500.	a. & b. Executive/Leader.	a. Executive Director Finance and Resources  b. Executive Director Finance and Resources with the agreement of the Leader of the Council.

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<p>Local Government and Housing Act 1989.</p>	<p>To make determinations under the following Schedules and Sections of the Act:</p> <ul style="list-style-type: none"> <li>• Part 1 Schedule 3</li> <li>• Paragraph 9 (1) (b) Schedule 3</li> <li>• Section 42 (2) (g)</li> <li>• Section 50 (3) (b)</li> <li>• Section 56 (1)</li> <li>• Section 60 (2)</li> <li>• Section 63 (1)</li> </ul>	<p>Executive/Leader.</p>	<p>Financial Services Manager</p>
<p>Maturity Mortgages.</p>	<p>To deal with requests for the premature repayment of monies secured by maturity mortgages/local bonds.</p>	<p>Executive/Leader.</p>	<p>Financial Services Manager.</p>
<p>New Homes Bonus scheme</p>	<ol style="list-style-type: none"> <li>1. To administer the New Homes Bonus scheme including initial assessment of applications.</li> <li>2. Following consultation with the Chairman of the New Homes Bonus Community Grants Panel, to reject applications which are ineligible or inappropriate.</li> </ol>	<p>Executive/Leader</p>	<ol style="list-style-type: none"> <li>1. Executive Director Finance and Resources.</li> <li>2. Following consultation with the Chairman of the New Homes Bonus Community Grants Panel</li> </ol>
<p>Tax Relief Reimbursement.</p>	<p>To be an authorized signatory of the purpose of making formal claims to the Inland Revenue for the periodic reimbursement of tax relief granted by the Council.</p>	<p>Executive/Leader.</p>	<p>Head of Customer Access and Financial Support.</p>
<p>Utilities - Restoration or Continuance of Services.</p>	<p>To deal in consultation with the relevant Portfolio Holder and generally in accordance with emergency procedures with applications received pursuant to the arrangements according to section 33 of the Local Government (Miscellaneous Provision) Act 1976 (Public Utility Services to Dwellings) and to take such action as may</p>	<p>Executive/Leader.</p>	<p>Financial Services Manager or Head of Planning &amp; Regeneration.</p>

# Agenda Item 6

## PART 6

	be necessary for the recovery of any payments made by the Council in pursuance of such arrangements.		
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# Agenda Item 6

## PART 6

<b>2. Procurement</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Approved Officers.	To nominate Approved Officers to undertake procurement on behalf of the Council accordance with Contract Procedure Rules.	Executive/Leader.	Chief Executive, Executive Directors, Deputy Chief Executive and Heads of Service.
Contracts.	To enter into contracts in accordance with Contract Procedure Rules.	Executive/Leader.	Heads of Service.
Select List.	To decide the composition of Select Lists of contractors which are relevant to the Cabinet's work.	Executive/Leader.	Chief Executive, Executive Directors and Heads of Service.
Selective Tendering Procedures.	To select contractors from an approved standing list of contractors.	Executive/Leader.	Chief Executive, Executive Directors and Heads of Service.
Tenders.	To engage in the formal tender process in accordance with Contract Procedure Rules.	Executive/Leader.	Heads of Service.

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## PART 6

<b>3. Revenues and Benefits</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Cautions.	To administer cautions to offenders as an alternative to Court proceedings.	Council.	Officers authorised in writing by the Head of Customer Access and Financial Support.
Council Tax.	To act in Council Tax matters under the powers of Section 101 of the Local Government Act 1972.	Council.	Head of Customer Access and Financial Support.
Court Proceedings.	To select and authorise officers to appear before Magistrates Courts and Tribunals to: <ul style="list-style-type: none"> <li>(b) represent the Council in the recovery of Council Tax and non-domestic rates monies due to the Council;</li> <li>(b) represent the Council before a Valuation Tribunal in consideration of any appeals which may arise concerning Council Tax and non-domestic rates.</li> </ul>	Council.	Principal Solicitor or Head of Customer Access and Financial Support.
Discretionary Rate Relief - National Non-Domestic Rates.	To approve future Discretionary Rate Relief Awards subject to the criteria and policies of the Council.	Executive/Leader.	Head of Customer Access and Financial Support .
Essential Living Fund	To administer the Essential Living Fund in accordance with Council policy	Executive/Leader	Head of Customer Access and Financial Support
General Rate Act 1967.	To sign agreements under section 72 of the Act on behalf of the Council.	Executive/Leader.	Head of Customer Access and Financial Support.

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Housing Benefit.	To deal with housing benefit determinations and notifications including the issue of written explanations and confirmations or amendments of previous determinations.	Executive/Leader.	Head of Customer Access and Financial Support.
Council Tax Reduction	To administer the Council Tax Reduction scheme in accordance with Council policy (as determined by the Members)	Executive/Leader.	Head of Customer Access and Financial Support.
Local Valuation Court.	To appear for the Council at sittings of the Local Valuation Court.	Executive/Leader.	Head of Customer Access and Financial Support.
Rate Relief (Mandatory).	Top determine applications for mandatory rate relief under Section 43 of the Local Government Finance Act 1988.	Executive/Leader.	Head of Customer Access and Financial Support.

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## PART 6

<b>4. Property Services</b>			
<b>Subject</b>	<b>Detail</b>	<b>Delegated by:</b>	<b>Delegated to:</b>
Applications for Planning Consent.	To submit planning applications on behalf of the Council where necessary for any project.	Council.	Executive Director - Finance and Corporate Resources.
Erection of Structures on Council land.	To determine applications for consent for the erection of structures on land/properties on any land owned or managed by the Council, erection of which requires (under a covenant on the sale or lease of the properties), consent by the Council.	Executive/Leader.	Executive Director - Finance and Corporate Resources.
Leasehold Reform Act Notices.	To serve notices and counter notices, institute proceedings and take any other necessary action under the Leasehold Reform Act 1967.	Executive/Leader.	Executive Director - Finance and Corporate Resources.
Leases and Tenancies.	To agree terms for, and accept the surrender of, leases or tenancies of properties allocated to his/her charge, in accordance with Council policy and the relevant legislation.	Executive/Leader.	Executive Director - Finance and Corporate Resources.
Management of Land.	To manage, maintain and undertake relevant negotiations in respect of the Council's properties allocated to his/her charge, in accordance with the Assets Management Plan and relevant legislation.	Executive/Leader.	Executive Director - Finance and Corporate Resources.
Minor Matters affecting land.	To deal with minor matters affecting lands and to authorise the signing or sealing of any related documents.	Executive/Leader.	Executive Director - Finance and Corporate Resources.
Notices relating to Land.	<ol style="list-style-type: none"> <li>1. To give notice to quit and other notices for formal demands which are required in the interests of the Council.</li> <li>2. To sign and serve notices and counter notice, :-</li> </ol>	Executive/Leader.	<ol style="list-style-type: none"> <li>1. Executive Director - Finance and Corporate Resources.</li> <li>2. Executive Director -</li> </ol>

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	<p>(a) determining leases, tenancy agreements and licences to occupy (except residential premises held under Part V of the Housing Act 1957) and</p> <p>(b) under Part II of the Landlord and Tenant Act 1954 when the Council wishes to grant or oppose the grant of a new lease, tenancy or licence.</p>		Finance and Corporate Resources.
Purchase of Land.	<p>1. To agree terms for the acquisition of land or individual properties required for an approved scheme after consultation with Chief Officers concerned complete the purchases where a capital scheme for the acquisition has been approved by the Council.</p> <p>2. To buy buildings or land at the best price reasonably obtainable in accordance with the Assets Management Plan and relevant legislation.</p>	<p>1. Executive/Leader.</p> <p>2. Executive/Leader.</p>	<p>1. Executive Director - Finance and Corporate Resources</p> <p>2. Executive Director - Finance and Corporate Resources.</p>
Repurchase of Former Council Houses.	To waive the right to repurchase former Council houses under the pre-emption clauses and to substitute the discount provisions contained in the Housing Act 1980.	Executive/Leader.	Executive Director - Finance and Corporate Resources.
Recreational Land.	To decide on arrangements for the access, usage & leasing of recreational land or facilities to parish councils and other organisations and to determine any applications for consents required under such leases.	Executive/Leader.	Executive Director - Finance and Corporate Resources and Head of Leisure and Culture.



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## PART 6

Right to Buy - Postponement of Statutory Charge.	To determine requests for the postponement of the Council's statutory charge on property sold under the Right to Buy scheme.	Executive/Leader.	Executive Director - Finance and Corporate Resources.
Sale of Land.	<p>1. To determine applications for the purchase, grants of easements, rights of way and other minor licenses of small areas of land owned by the Council, which is defined as:</p> <ul style="list-style-type: none"> <li>- less than half a hectare in size and with a value of less than £49,999 plus VAT/fees)</li> <li>- all garden licenses or grazing licenses regardless of the size of land</li> </ul> <p>in accordance with Council policy for Minor Land Disposal.</p> <p>2. Following a Cabinet decision to declare as surplus, to sell buildings and land at the best price reasonably obtainable in accordance with the Assets management Plan and relevant legislation.</p>	<p>1. Executive/Leader.</p> <p>2. Executive/Leader.</p>	<p>1. Executive Director Finance and Resources following consultation with the Ward Member(s).</p> <p>2. Executive Director - Finance and Resources.</p>
Parkside Suite	To grant to local charitable organisations free use of the Parkside Suite on up to 4 occasions per year.	Executive/Leader.	Executive Director - Finance and Resources.
Temporary Use of Land.	To take up any offer received from the Department of the Environment for the temporary use of properties acquired for road schemes provided that terms offered are satisfactory.	Executive/Leader.	Executive Director - Finance and Resources.

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## PART 6

Use of Council facilities by the public.	To approve the use of the Committee Room and Parkside suite by external organisations and the public.	Executive/Leader.	Executive Director - Finance and Resources.
Use of Land.	To determine applications for the use of small areas of land owned by the Council.	Executive/Leader.	Executive Director - Finance and Resources.

### **JOINT ARRANGEMENTS**

This section sets out the joint arrangements the Council has entered into with other local authorities, and is divided into the following parts:-

- Joint Committees
- Shared Services with Redditch Borough Council
- Other arrangements

#### **1. Joint Committees**

##### **a. Worcestershire Regulatory Joint Committee**

A joint committee has been established of the executives of this Council, Malvern Hills District Council, Redditch Borough Council, Worcester City Council, Wychavon District Council, and Wyre Forest District Council.

The joint committee has provision to operate and manage Worcestershire Regulatory Services. The Council has delegated to the Joint Committee the functions set out in Table 1 below.

The Council has delegated to the Head of Worcestershire Regulatory Service the discharge of functions set out in the Officers Scheme of Delegation for Regulatory Services.

##### **b. Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) – Joint Scrutiny Committee**

The Council appoints one member to a Joint Scrutiny Committee which reviews and/or scrutinises decisions made by the GBSLEP Supervisory Board. The Joint Committee is administered by Solihull Metropolitan Borough Council.

#### **2. Shared Services with Redditch Borough Council**

In 2009 the Council agreed to the appointment of a shared Chief Executive with Redditch Borough Council. In 2010 a shared management team for both Councils was appointed. The two councils have agreed to work together to deliver services jointly across both Councils. The co-operation between the two Councils on sharing services is reflected by a legal agreement referred to as the Overarching Framework Agreement.

As each Council continues to be independent politically, the Scheme of Delegations for Bromsgrove District Council, delegates the responsibility for making decisions from the Bromsgrove Executive and Council to the relevant Committees and officers. Under the terms of the Overarching Framework Agreement, the officers may be employed by either BDC or RBC, but this does not affect their ability to carry out functions delegated to them under the BDC Constitution.

The specific legislation which underpins these arrangements is set out in the Local Government Act 1972 and the Local Government Act 2000.

Under section 113 of the Local Government Act 2000, a local authority may enter into an agreement with another local authority for the placing at the disposal of the latter authority the services of staff employed by the former authority. Under section 101 of the Local Government Act 2000 a local authority may arrange for the discharge of its functions by any other local authority. This principle is further expanded in sections 19 and 20 of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000.

The staffing arrangements for the shared management team have been established under section 113 of the Local Government Act with each authority placing its employees at the disposal of the other. As shared services are introduced across the Council department by department, a host authority for each department will be identified. Staff will be transferred under TUPE to the host or receiving authority, and will carry out the functions of the delegating authority in accordance with section 101 of the Local Government Act.

### **3. Other arrangements**

The Council has agreed to enter into other arrangements for sharing services with local authorities. These are summarised below:-

#### **a. Internal Audit Services**

The Council has agreed to enter into arrangements with Malvern Hills District Council, Redditch Borough Council, Worcester City Council, and Wychavon District Council for the authorities to collaborate and provide one shared Internal Audit Service for all the authorities. The service is hosted by Worcester City Council and is regulated by a formal agreement.

#### **b. Payroll Service**

The Council has agreed to enter into arrangements with Redditch Borough Council for Redditch Borough Council to provide the payroll service for Bromsgrove District Council. The arrangement is regulated by a formal agreement.

#### **c. North Worcestershire Economic Development and Regeneration**

The Council has agreed to enter into an arrangement with Redditch Borough Council and Wyre Forest District Council for the authorities to collaborate and provide one shared service for economic development and regeneration across the three authorities. For Bromsgrove the shared service is responsible for markets and promoting economic activity in the area band the regeneration of Bromsgrove Town Centre.

### **d. Building Control Shared Service**

The Council has agreed to enter into an arrangement with Redditch Borough Council and Wyre Forest District Council for the authorities to collaborate and provide one shared service for building control services across the three authorities. The shared service is hosted by Bromsgrove District Council and is regulated by a formal agreement.

### **f. Land Drainage Shared Service**

The Council has agreed to enter into an arrangement with Redditch Borough Council and Wyre Forest District Council for the authorities to collaborate and provide one shared service for land drainage service across the three authorities. The shared service is hosted by Wyre Forest District Council and is regulated by a formal agreement.

### **g. North Worcestershire Emergency Planning Shared Service**

The Council has agreed to enter into an arrangement with Redditch Borough Council and Wyre Forest District Council for the authorities to collaborate and provide one shared service for emergency planning across the three authorities. The shared service is hosted by Wyre Forest District Council and is regulated by a formal agreement.

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### TABLE 1

#### DELEGATIONS TO WORCESTERSHIRE REGULATORY SERVICES JOINT

#### COMMITTEE

Subject to the terms of the Worcestershire Shared Services Partnership Agreement to:

- (i) Oversee the implementation, development and on-going operation of the shared services
- (ii) Ensure the effective delivery of the shared service functions in accordance with the terms of the agreement
- (iii) Monitor the effectiveness of those arrangements and make recommendations to the Participating Authorities e.g. in the event of any changes to legislation, developments in best practice or the requirements imposed on Member Authorities
- (iv) On an annual basis, agree a three year business plan for each shared service including:
  - Service delivery, service development & financial objectives
  - Performance improvement & efficiency targets
  - Staffing
  - Business continuity planning
  - Risk management
- (v) Set annual capital, revenue and staffing budgets for each shared service and no later than 1<sup>st</sup> December in each year submit these to the Member Authorities for approval as part of the business plan
- (vi) Monitor the operational performance of the shared services on [a quarterly basis]
- (vii) Ensure service delivery is in accordance with the key performance indicators and agreed national, regional and local priorities
- (viii) Ensure effective action is taken to remedy any under-performance in the delivery of services
- (ix) Monitor the financial performance of each shared service – quarterly report and monthly updates
- (x) Determine the terms of employment of all staff within the shared service functions
- (xi) Determine the arrangements for support services in agreement with the Host Authority and participating Authorities, in consultation with the Head of Shared Service
- (xii) Produce an annual report to the member Authorities by no later than 30<sup>th</sup> June in each year covering the performance of the shared services in the 12 month period ending on the preceding 31<sup>st</sup> March
- (xiii) Co-operate with and participate in Overview and Scrutiny exercises of the Member Authorities
- (xiv) Review the operation and effectiveness of the shared service arrangements at least every two years, consider ways in which the Shared Services partnership can be expanded and make recommendations to the Member Authorities as appropriate.

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## Bromsgrove District Council

### Procedure Rules

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Items marked with # also apply to Committee and Board meetings

Items marked with \* cannot be suspended

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## Bromsgrove District Council

### Procedure Rules for Council and Committee Meetings

#### **1. Introduction**

- 1.1 These procedure rules apply to the Council and other meetings.
- 1.2 When a rule applies to a Committee, Sub-committee or Board, this is shown by # next to the heading.
- 1.3 The rules do not apply to the Cabinet or to Joint Committees or other meetings which operate under separate constitutions.
- 1.4 Nothing in these procedure rules overrides legal requirements which apply to the conduct of meetings.

#### **2. Annual Meeting of the Council**

Quorum: 16

- 2.1 In a year when there are ordinary elections the Annual Meeting will be held within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in May. The meeting will usually start at 6.00pm.
- 2.2 The Annual Meeting will:
  - (a) elect a person to preside if the Chairman and Vice-Chairman are not present;
  - (b) elect the Chairman of the Council;
  - (c) elect the Vice-Chairman of the Council;
  - (d) receive any declarations of interest from Councillors;
  - (e) approve the minutes of the last meeting;
  - (f) receive any announcements from the new Chairman and/or the Chief Executive;
  - (g) in the year of ordinary elections of Councillors, or when there is a vacancy, elect the Leader;
  - (h) agree:
    - (i) the terms of reference of,
    - (ii) size and

(iii) appoint to, in accordance with political balance rules,

Committees and Boards as appropriate to deal with matters which are not functions of the Council or Cabinet;

- (i) agree the scheme of delegation;
- (j) consider other business required by legislation;
- (k) to consider any business set out in the notice for the meeting.

### **3. Ordinary Meetings of the Council**

Quorum: 16

3.1 Ordinary meetings of the Council will take place in accordance with a programme agreed by the Head of Legal, Equalities and Democratic Services following consultation with the Leader and relevant Portfolio Holder. Council meetings will usually start at 6.00pm.

3.2 Ordinary meetings will:

- (a) Elect a person to preside if the Chairman and Vice-Chairman are not present;
- (b) Receive any declarations of interest from Councillors;
- (c) Approve the minutes of the last meeting;
- (d) receive any announcements from the Chairman and/or the Chief Executive;
- (e) receive any announcements from the Leader of the Council (*see also Procedure rule 14*);
- (f) receive comments, questions or petitions from members of the public and/or from Councillors on their behalf, in accordance with procedure rule 8;
- (g) deal with any business from the previous Council meeting;
- (h) deal with questions on notice from members of the Council in the order in which they have been received, in accordance with procedure rule 9;
- (i) receive minutes and/or reports from the Audit, Standards and Governance Committee;

# Agenda Item 8

- (j) consider reports and/or recommendations from the Cabinet. These may be presented as minutes of recent meetings of the Cabinet which contain recommendations and are also used to report on recent activity;
- (k) consider recommendations from any other Committees of the Council which require approval;
- (l) receive nominations and make appointments to outside bodies, except where appointment to the bodies has been delegated by Council or can be carried out only by the Cabinet. Details of ex-officio appointments will be set out in the agenda.
- (m) receive and consider reports from officers of the Council;
- (n) Receive and consider an annual report from one Portfolio Holder in accordance with Procedure rule 20;
- (o) Once a year, receive and consider an annual report from the Overview and Scrutiny Board about the work carried out by that Board, presented by its Chairman;
- (p) Once a year, receive and consider an annual report from the Audit, Standards and Governance Committee about the work carried out by that Committee, presented by its Chairman;
- (q) receive reports about activities of joint bodies to which the Council belongs, or other external organisations of interest to the District and ask questions about the report;
- (r) consider motions in the order in which they have been received, in accordance with procedure rule 10;
- (s) Consider any other business set out in the agenda;
- (t) To consider any urgent business not included in the agenda in accordance with legal requirements and subject to agreement with the Chairman prior to the meeting.
- (u) Other than items under paragraphs (a) – (c) the order of business may be varied by the Chairman or by Council resolution.

## **4. Extraordinary (“Special”) Meetings of the Council**

Quorum: 16

Extraordinary meetings are additional meetings to those set out in the annual programme and are called to consider specific business.

4.1 The following may ask the Chief Executive to call an Extraordinary meeting of the Council:

- (a) the Council by resolution;
- (b) the Chairman of the Council;
- (c) the Monitoring Officer;
- (d) the Chief Financial Officer
- (e) any 5 members of the Council if they have signed a notice presented to the Chairman asking him/her to call an Extraordinary meeting.

4.2 Business to be carried out at an Extraordinary meeting should:

- (a) Be about a matter for which the Council is responsible or affects the District of Bromsgrove;
- (b) Not be substantially the same as a question or issue which has been put at a meeting of the Council in the past 6 months;
- (c) Relate to the budget and policy framework; or
- (d) Relate to functions undertaken by the Council; or
- (e) Not be business which should more appropriately be dealt with by an officer.

4.3 On receiving a request under paragraph 4.1 (e) the Chairman may:

- (a) Convene an Extraordinary meeting of the Council to take place within 14 days after the date of the request, or on a date agreed between the Chairman and those who signed the request; or
- (b) Following consultation with the Chief Executive and Monitoring Officer, refer the matter to the next available meeting of the Council if the Chairman considers that the business set out in the request is not so urgent as to require an Extraordinary meeting to be called; or

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- (c) Following consultation with the Chief Executive and Monitoring Officer, refer the matter to the next available meeting of Cabinet or a Committee if the Chairman considers that it would be more appropriate to deal with the business in this way; or
  - (d) Decline to arrange an Extraordinary meeting if the Chairman, following consultation with the Chief Executive and Monitoring Officer, considers that the business set out in the request does not meet legal or constitutional requirements.
- 4.5 Extraordinary meetings of the Council will only consider the business on the agenda for the meeting, as set out in the request to convene it, and any other business which in the opinion of the Chief Executive is relevant to it. Meetings will usually start at 6.00pm.
- 4.6 The agenda for an Extraordinary meeting will not include Motions on Notice or Questions.
- 4.7 The agenda for an Extraordinary meeting may include approval of the minutes of the previous Council meeting and minutes of the Cabinet or other Committee/Board meeting or such other items of business as may be appropriate to ensure the efficient administration of Council business.

## **5. Notice of and Summons to Meetings #**

- 5.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules.
- 5.2 Except in cases of urgency, at least 5 clear days before a meeting, the Chief Executive will send an agenda and reports to each member of the Council/Committee etc.
- 5.3 The agenda will give the date, time and place of each meeting, the business to be carried out and include available reports.

## **6. Previous Decisions and Motions**

- 6.1 A motion, the effect of which is to rescind a decision made at a meeting of the Council within the previous 6 months (or has the same effect as one which has been rejected in the last 6 months) cannot be moved unless a Notice of Motion is signed by at least 7 Councillors, or is recommended by a meeting of the Cabinet or a Committee.

## **7. Urgent Business #**

- 7.1 If a Councillor wishes to raise an item of urgent business which is not set out in the agenda for a meeting, s/he must discuss the issue before the meeting with the Chairman, Leader, Chief Executive and Monitoring Officer.
- 7.2 Having taken advice, the Chairman will decide whether or not the issue can be considered at the meeting.

## **8. Public Participation at Council Meetings**

### **What is included**

- 8.1 The agenda for each ordinary meeting of the Council will include a period of up to 15 minutes for members of the public to put comments about matters in the agenda and/or questions to the Council and to present petitions. The Chairman of the Council may agree to allow a similar arrangement at Extraordinary meetings of the Council.
- 8.2 The Chairman of the Council will have complete discretion as to how public participation is conducted and may agree to extend the time available under exceptional circumstances.
- 8.3 Comments, questions or petitions must be about matters for which the Council is responsible or which affect the District. The Council will not consider comments, questions or petitions that relate to specific planning or licensing matters. Neither will it consider matters which are confidential or exempt.
- 8.4 The Monitoring Officer may reject any comments, questions or petitions that:
- are, or appear to be, defamatory, racist or contain offensive language, or are otherwise not appropriate for consideration at a Council meeting;
  - are substantially the same as a question that has been put to a meeting of the Council in the last 6 months;
  - would more appropriately be considered at a meeting of the Cabinet or a Committee, in which case the request to participate will be passed to the relevant body.
- 8.5 Members of the public do not include:
- Employees of the Council or their representatives, on any matter relating to their employment;
  - Any applicants for, or recipients of, approvals, permissions or licenses;



- Any person in a contractual relationship with the Council on a matter relating to that contract;
- Councillors from a Local Authority on a matter concerning that local authority.

## **How to Apply**

8.6 A copy of the comment, question or terms of petitions must be provided to the Monitoring Officer by 9.00am on the seventh calendar day before a meeting (usually by 9.00am on the Wednesday of the week before a Council meeting on a Wednesday). This may be in writing or by e-mail and should include:

- The name of the person to whom it is addressed – at the meeting this will go to the Chairman in the first instance;
- The name and address of the person submitting it;
- In the case of petitions, the number of signatories with their names and addresses supplied.

8.7 The Chairman has discretion to allow a question and/or comment from a member of the public received after the deadline in exceptional circumstances.

## **At the Meeting**

8.8 A member of the public may spend up to 3 minutes to:

- (a) Present a petition and explain its purpose;
- (b) Ask a question, or
- (c) make a comment on a matter on the agenda

8.9 A petition may be presented to the Council by a Councillor acting on his/her own behalf or on behalf of members of the public.

8.10 The Chairman will receive a petition. If the petition relates to a matter on the agenda for the meeting it may be referred to during the debate on that item. Usually a petition will be received without comment at the meeting but the Chairman will ensure it is responded to as quickly as possible.

8.11 A question should be addressed to the Chairman of the Council who may reply in one of the following ways:

- (a) An oral answer;

- (b) By asking the Leader or another Councillor to reply, either orally or in writing;
- (c) By asking an Officer to reply in writing;
- (d) By referring to information in a publication;
- (e) A written answer following the meeting, a copy of which will be published on the Council's website and included with the signed minutes of the Council meeting.

8.12 No response will be given to a comment under this item but it may be referred to during the debate on the relevant item.

## **9. Questions from Councillors at Council Meetings**

9.1 A Councillor may ask the Leader or the Chairman of a Committee any question without notice on an item of the minutes and/or any report of the Cabinet or Committee when that item is being received or considered by the Council.

### **Questions on Notice**

9.2 A Councillor may ask:

- The Chairman;
- A member of the Cabinet;
- The Chairman of any Committee or Sub-Committee

a question on any matter to which the Council, Cabinet, Committee or sub-committee has powers or duties or which affects the District of Bromsgrove.

The content of the question should comply with Procedure rule 9.8 - Content

### **Deadline for Questions**

9.3 The deadline for questions to be received by the Monitoring Officer is at least 2 clear working days before the meeting (usually 12.00 noon on the Friday before a meeting on the Wednesday).

9.4 A question must be submitted in writing.

9.5 If a question relates to an urgent matter, the Councillor should obtain the permission of the Chairman and submit the question to the Monitoring Officer not less than 2 hours before the start of the meeting at which it will be asked.

## **Content**

- 9.6 The Monitoring Officer may reject a question if:
- (a) it is defamatory, frivolous or offensive,
  - (b) it is substantially the same as one submitted within the previous six months;
  - (c) it asks the Council about a matter which is outside the powers or responsibility of the full Council;
  - (d) it relates to a specific planning or licensing matter;
  - (e) it does not relate to functions undertaken by the Council.
  - (f) It could be dealt with more appropriately by an officer;

## **At the meeting**

- 9.7 The question will be read out at the meeting by the Councillor who has asked it or by another Councillor on his/her behalf.
- 9.8 The answer may be given as:
- (a) A direct oral answer;
  - (b) A reference to information contained in a publication; or
  - (c) Where the answer cannot conveniently be given orally, a written answer, circulated to the questioner at the latest with the minutes of the Council meeting and appended to the signed copy of the minutes.
- 9.9 The Councillor who has been asked the question may, if appropriate, refer it to another member to answer.
- 9.10 Every question shall be put and answered without discussion.

## **Time limit**

- 9.11 At each meeting a maximum of 15 minutes will be allowed for the asking and answering of questions under this procedure rule.
- 9.12 The Chairman may at his/her discretion extend the time if s/he and the majority of those present agree.

- 9.13 Any questions that remain unanswered shall be dealt with at the next ordinary meeting of the Council in the order in which they were received, unless the Councillor who gave notice of it agrees to receive the answer in writing.

## **10 Motions on Notice at Council Meetings**

- 10.1 Any Councillor may give notice of not more than one Motion for consideration at any meeting of the Council.

### **Deadline for Motions**

- 10.2 Notices of Motion must be submitted to the Monitoring Officer by 9.00am on the seventh calendar day before the date of the meeting (usually 9.00am on the Wednesday the week before a Council meeting on a Wednesday).
- 10.3 A Motion must be submitted in writing.

### **Urgent Notice of Motion**

- 10.4 If a Motion relates to an urgent matter and otherwise complies with the requirements set out in this procedure rule, the Councillor submitting it should obtain the permission of the Chairman and submit the Motion to the Monitoring Officer not less than 24 hours before the start of the meeting at which it will be moved.

### **Content**

- 10.5 The Notice must contain a written notice of the motion;
- 10.6 Motions must be about matters for which the Council is responsible or which affect the District.
- 10.7 The Monitoring Officer may reject a Notice of Motion if:
- (a) it is defamatory, frivolous or offensive,
  - (b) it is substantially the same as one submitted within the previous six months;
  - (d) it requests the Council to make a decision which is outside the powers or responsibility of the full Council;
  - (e) it is not of a strategic nature;
  - (f) it does not relate to functions undertaken by the Council.

## **At the meeting – Proposal and Withdrawal of Motion**

- 10.8 The Motion can be moved by the Signatory to the Notice or another Councillor on their behalf.
- 10.9 If a Motion is not moved at a Council meeting, it will lapse and can only be moved again if Notice is given in accordance with these procedure rules.

## **Deferment of Motions**

- 10.10 If, having taken advice from the Chief Executive and Monitoring Officer, the Chairman considers that the Motion should be dealt with in conjunction with a report from an Officer, the Motion will be deferred until this can be arranged.
- 10.11 No Motion shall be deferred for longer than one Ordinary meeting of the Council. The Chairman will inform the Council under his/her Announcements of any such deferrals.

## **Referral of Motions**

- 10.12 If a Notice of Motion relates to an Executive function and is proposed and seconded, the Council may discuss the matter in order to inform the Cabinet's consideration of it. It cannot decide the matter.
- 10.13 Motions which relate to matters reserved to the Council or to non-Executive functions may be debated and decided by the Council.
- 10.14 If the motion is not debated, it will be referred to the Cabinet or appropriate body to consider and report back to the Council with recommendations on how to proceed.
- 10.15 If a Motion is referred to the Cabinet or another Committee for consideration, then the Proposer of the Motion will be invited to attend the relevant meeting when it is discussed to introduce and speak to it.

## **Time Limit for Motions on Notice**

- 10.16 At each meeting up to one hour shall be allowed for consideration of all Motions on Notice. This may only be exceeded with the agreement of the Council.
- 10.17 At the end of the hour – or other time period if agreed by the Council – the Chairman will ask the Councillor speaking to conclude immediately.

# Agenda Item 8

- (a) If the speaker is proposing the motion then it can be formally seconded without comment;
- (b) If the speaker is moving an amendment, the Chairman will allow the amendment to be formally seconded, without comment, and the mover of the motion to exercise their right of reply;
- (c) If neither (a) nor (b) then the mover of the motion will be allowed to have their right of reply for up to 5 minutes.

10.18 The Chairman will put to the vote, without further discussion, all questions necessary to dispose of the motion being debated and put the Motion to the vote.

10.19 If as a result of reaching the time limit a motion is not moved by either the Councillor who gave notice or another Councillor on their behalf, it shall be either:

- (a) treated as withdrawn and cannot be moved without fresh notice, although it will not be restricted by the 6 month rule set out at Procedure rule 6; or
- (b) with the consent of the Council, be postponed until the next Ordinary meeting.

## **11 Chairing the Meeting #**

- 11.1 The person presiding at the meeting may exercise any powers or duty of the Chairman.
- 11.2 Where these rules provide for a maximum time to be devoted to an item or speech or other process, the Chairman may, if s/he and the majority of Members present agree, extend that time if it felt appropriate in the interests of effective conduct of Council business.
- 11.3 Any ruling of the Chairman shall not be challenged.

## **12 Councillor Conduct # 12.1 only**

- 12.1 Councillors are expected to treat each other with respect and abide by the Code of Conduct.

- 12.2 When a Councillor speaks at a meeting of the Council s/he must, if able, stand and address the meeting through the Chairman unless the Chairman agrees and directs otherwise. Only one Councillor may stand at a time. Other Councillors must remain seated whilst a Councillor is speaking, unless they wish to make a point of order or a point of personal explanation (Procedure rule 17.6).
- 12.3 When the Chairman stands during debate, any Councillor speaking at the time must stop and sit down. The meeting must be silent.

## **Prevention of Disorderly Conduct #**

### Prevention of Disorderly Conduct – Councillors and Public

- 12.4 The Chairman may take the following action if a Councillor persists in misconduct:
- (a) forbid the Councillor from speaking for all or part of the meeting;
  - (b) tell the Councillor to leave all or part of the meeting;
  - (c) order the Councillor to be removed from the meeting;
  - (d) adjourn the meeting for an appropriate time to try and resolve the situation.
- 12.5 Similar action can be taken if a member of the public disrupts the meeting.
- 12.6 If there is more general disorder in any part of the room where the meeting is being held which is open to the public, the Chairman may order that part to be cleared and may adjourn the meeting as appropriate.
- 12.7 Members of the public are permitted to take photographs, films, video record or audio record a Council and other meetings open to the public, provided that they do not intimidate public speakers or cause disruption and abide by any directions given by the Chairman. Oral commentary is not permitted. Members of the public intending to record meetings should notify the Democratic Services Manager in advance of the meeting. The Council's protocol is on the website and explains this further.
- 12.8 The taking of photographs, filming, video or audio recording is not permitted at private meetings or where the public have been excluded. Recording equipment must not be left in a meeting room after the public have been excluded.

## **13 Quorum #**

- 13.1 The quorum of a meeting will be a proportion of the voting members of the Committee, Sub-Committee or Board etc, as agreed by the Council from time to time.
- 13.2 If at any time during the meeting the Chairman declares that there is not a quorum present, the meeting will adjourn immediately for 15 minutes.
- 13.3 If after that time there is still not a quorum present, the meeting shall end.
- 13.4 Any remaining business will be considered at the next meeting, whether ordinary or extraordinary, unless the Chairman makes other arrangements prior to the next meeting.

## **14. Announcements**

- 14.1 Each person entitled to make an announcement may speak for a total of five minutes.
- 14.2 Announcements must not relate to items on the agenda or exempt or confidential items.
- 14.3 In respect of Leader's announcements only, Councillors may ask questions by way of clarification. Up to five minutes in total may be devoted to Councillors' questions to the Leader.

## **15. Minutes #**

- 15.1 The Chairman will sign the minutes of the proceedings at the next suitable meeting.
- 15.2 The Chairman will propose that the minutes of the previous meeting be signed as a correct record. The only aspects of the minutes which can be discussed is their accuracy.
- 15.3\* If the next meeting is an Extraordinary meeting (called under Para 3 of Schedule 12 to the Local Government Act 1972) then the minutes will usually be signed at the next following Ordinary meeting.

\* *Mandatory procedure rule, Local Authorities (Standing Orders) Regulations 1993*



## 16. **Advice from Officers #**

- 16.1 Whenever the Chief Executive, the Section 151 Officer or the Monitoring Officer considers it appropriate to give advice to the Council, they shall be at liberty to do so and the Council shall hear such advice.

## 17. **Rules of Debate**

Not every debating possibility can be covered in these procedure rules. In the event of an issue not being covered by them, the Chairman's ruling shall be final.

### **Dealing with Motions and Amendments**

- 17.1 A motion or amendment must be proposed and seconded before it can be discussed.
- 17.2 The Chairman may require any procedural motion to be written down and handed to him/her before it is discussed.

### **Speeches**

- 17.3 Speeches may not exceed 5 minutes without the consent of the Chairman and a majority of those present.
- 17.4 Speeches must be about the item being discussed or about a point of order or personal explanation.
- 17.5 When seconding a motion or amendment, a Councillor may reserve their speech until later in the debate.

### **When Councillors may speak more than once, including Point of Order and Personal Explanation**

- 17.6 A Councillor may only speak once on a motion except:
- (a) to speak once on an amendment moved by another Councillor;
  - (b) if their first speech was on an amendment and that has now been dealt with, to speak on the main proposal;
  - (c) to exercise a right of reply as a mover of a motion (not an amendment);
  - (d) on a point of order or by way of personal explanation.

(i) A point of order may only relate to an alleged breach of these Council procedure rules or the law and the Councillor must indicate the way in which s/he considers it has been broken. The ruling of the Chairman will be final and not open to discussion.

(ii) Personal explanation may only relate to some material part of an earlier speech by the Councillor at the same meeting which may appear to have been misunderstood in the current debate. The ruling of the Chairman on the admissibility of a personal explanation will be final and not open to discussion.

(e) to move a further amendment;

(e) to make a motion to close the debate.

## **Amendments**

17.7 An amendment must be relevant to the motion and will be:

- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (b) to leave out words
- (c) to leave out words and insert or add others; or
- (d) to insert or add words

As long as the effect of (b) to (d) is not to negate the motion.

17.8 Only one amendment may be dealt with at a time.

17.9 Amendment not carried – a further amendment to the motion may be moved.

17.10 Amendment carried – the amended motion takes the place of the original motion. It is known as the “substantive motion” and further amendments may be moved to this.

17.11 After an amendment is carried the Chairman will read out the amended motion before accepting any amendments. If there are no further amendments the substantive motion is debated before being put to the vote.

## **Alteration of Motion**

17.12 An alteration to a motion must be either:

- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;

- (b) to leave out words;
- (c) to leave out words and add others;
- (d) to add words;

So long as the effect of (b) to (d) is not to negate the motion.

## **When a motion can be altered**

17.13 A motion may be altered:

- (a) before it has been moved by the Councillor who submitted it (or another Councillor on his/her behalf) if the majority of those present agree;
- (b) after it has been moved and seconded if both the mover and seconder and the majority of those present agree.

## **Withdrawal of Motion**

17.14 A Councillor may withdraw a motion which s/he has moved. Once withdrawn it cannot be discussed any further.

## **Rights of Reply – motions and amendments**

17.15 Mover of motion has right of reply at end of debate on the motion, immediately before it is put to the vote.

17.16 If an amendment is moved, the mover of the original motion has right of reply at close of debate on the amendment but shall not speak on it apart from this. The mover of the amendment has right of reply at end of debate on the amendment, immediately prior to the final right of reply of the mover of the original motion.

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

17.17 During debate on a motion, the following are the only further motions that can be moved:

- (a) to amend a motion;
- (b) closure motions – see procedure rule 17.19 below;
- (c) under Procedure rule 12.4 that a Councillor is not heard further; or that a Councillor leave the meeting;
- (d) to exclude the public and press in accordance with the Access to Information rules.

## **Procedural Motions without notice**

17.18 The following procedural motions may be moved without notice:

- (a) to appoint a Chairman of the meeting;
- (b) 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 a member arising from an item on the agenda for the meeting;
- (f) to receive reports or adopt recommendations from Committees or Officers and any resolutions following from them;
- (g) closure motions under procedure rule 17.18;
- (m) to suspend a particular procedure rule;
- (n) to exclude the public and press in accordance with Access to Information Rules;
- (o) to not hear further a member named under rule 12.4 or to exclude them from the meeting;
- (p) to give the consent of the Council where it is required under this constitution.

## **Closure Motions**

17.19 A Councillor may move, without comment, the following motions at the end of a speech of another Councillor:

- (a) to proceed to next business;
- (b) that the question now be put to the vote;
- (c) to adjourn a debate;
- (d) to adjourn a meeting.

17.20 **“That the meeting proceed to next business”** – if seconded and the Chairman thinks the item has been sufficiently discussed, s/he gives mover of motion right of reply and procedural motion is put to the vote.

17.21 **“That the question now be put”** – if seconded and the Chairman thinks the item has been sufficiently discussed, s/he will put the procedural motion to the

vote. If passed, the mover of the original motion has the right of reply before the motion is put to the vote.

If the Chairman considers there has been insufficient debate, s/he may refuse to accept the motion.

- 17.22 **“That the debate be now adjourned”** and **“that the meeting do now adjourn”** – if seconded and the Chairman thinks the item has not reasonably been discussed and cannot reasonably be discussed on this occasion, s/he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

## 18. Voting #

- 18.1 Unless a recorded vote is demanded or required, voting shall be by general assent or by show of hands. Any matter will be decided by a simple majority of those present and entitled to vote in the meeting at the time the question was put.
- 18.2 If there is an equal number of votes for and against, the Chairman may use a second or casting vote. There is no restriction on how the Chairman chooses to use a casting vote.

### **Recorded Votes**

- 18.3 If before the Chairman has called for a show of hands, any Councillor present at a meeting demands it, the vote shall be recorded to show the names of those who voted for or against the motion and those who abstained.
- 18.4\* Where any member requests it immediately after a vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the matter or abstained from voting.

*Mandatory Procedure Rule, Local Authorities (Standing Orders) Regulations 1993*

- 18.5\* Immediately after any vote is taken on a budget or Council Tax decision at a budget decision meeting of the Council, the names of those who voted for or against the motion or abstained shall be recorded.

*Mandatory Procedure Rule, Local Authorities (Standing Orders) (England) Regulations 2014*

## **Voting on Appointments**

- 18.6 If there are two or more people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the last 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.

## **19. Consideration of Recommendations from Cabinet and Reports presented by Cabinet Members**

- 19.1 Each report or recommendation from Cabinet will be presented by a member of the Cabinet whose initial presentation shall not exceed 10 minutes.
- 19.2 Other speeches shall not exceed 5 minutes.
- 19.3 The member of the Cabinet presenting the report or recommendation may, with the consent of the Chairman, respond to all questions raised or points made during the debate.
- 19.4 The member of the Cabinet presenting the report or recommendation has a right to reply at the end of the debate on the recommendation immediately before it is put to the vote.
- 19.5 The member of the Cabinet presenting the report or recommendation may alter or amend the recommendation if the majority of members present agree, provided such alteration or amendment is one which could be made as an amendment to a motion under Rule 17.7 – 17.11.
- 19.6 An amendment to a report or recommendation from Cabinet may be made provided such amendment is one which could be made as an amendment to a motion under Rule 17.7 and the procedure set out in Rule 17 insofar as it applies to amendments to motions shall apply to amendments to recommendations from Cabinet.

## **20. Annual Reports from Portfolio Holders**

- 20.1 At each ordinary meeting of the Council there will be an item on the agenda to receive and consider an annual report from one portfolio holder.
- 20.2 The report will include important matters from the previous 12 months and forthcoming policy issues which the Portfolio holder wishes to raise with the Council.
- 20.3 Each report will be presented by the Portfolio Holder and their initial presentation shall not exceed 10 minutes.

- 20.4 Councillors may ask questions of the Portfolio Holder. Questions and answers shall not exceed 3 minutes.
- 20.5 A maximum of 30 minutes will be allowed for this item at the meeting.
- 20.6 Councillors will not take any decisions in connection with or vote on the report. The main issues raised during discussion of the reports will be minuted.

## **21. Suspension and Amendment of Council Procedure Rules**

### **Suspension**

- 21.1 All of these Council Rules of Procedure except Rule 15.3, 18.4 and 18.5 may be suspended by motion on notice or without notice if a majority of those present and entitled to vote agree. Suspension shall last until such time as the meeting agrees to reinstate the suspended rule(s), or the end of the meeting, whichever is the earlier.

### **Amendment**

- 21.2 Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **22. Application to Committees and Sub-Committees**

- 22.1 All of the preceding Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Cabinet.
- 22.2 All of the preceding Rules except Rules 2-4, 6, 8-10, 12.2-12.3, 14, 17, 19, 20 and 21 apply to meetings of committees and sub-committees. Rules 23 – 25 shall apply only to meetings of committees and sub-committees.

## **23. Election of Chairmen and Vice-Chairmen of Committees #**

- 23.1 Every Committee will, at its first meeting following the Annual Meeting of the Council, before proceeding to any other business, elect a Chairman and Vice-Chairman for the municipal year. If both the Chairman and Vice-Chairman are absent from a meeting of that Committee during the municipal year, the Committee may elect a member to chair that particular meeting.
- 23.2 In the event of a vacancy arising in the office of Chairman or Vice-Chairman of a committee, the committee will at its next meeting following the declaration of the vacancy appoint a member to fill the vacancy for the remainder of the municipal year.

## **24. Extraordinary Meetings of Committees #**

- 24.1 The Chairman of a committee or the Chairman of the Council may summon an extraordinary meeting of the committee at any time.
- 24.2 An extraordinary meeting shall also be summoned on the requisition in writing of a quarter of the members of the committee. The summons shall set out the business to be considered at the extraordinary meeting, and no other business than that set out shall be considered at that meeting.

## **25. Appointment of Substitute Members of Committees and Sub-Committees #**

- 25.1 When a member of the Council is unable to attend a particular meeting of a committee or sub-committee, he/she may appoint another member *from the pool of substitute members for that Committee or sub-committee*, to attend the meeting as his/her substitute. Members may not arrange for substitutes to attend in their place at Cabinet.
- 25.2 Substitute members will have all the powers and duties of any ordinary member of the committee.
- 25.3 Substitute members may attend meetings in that capacity only:
- (a) where the ordinary member will be absent for the whole of the meeting; and
  - (b) after notifying the Head of Legal, Equalities & Democratic Services before or at the commencement of the meeting of the intended substitution.

## **26. Calculation of Time #**

“Working day” shall not include a Saturday, Sunday, bank holiday, public holiday or other day on which the Council House is closed.

“Clear day” shall not include the date on which notice is given, or the date of the meeting.



### **ACCESS TO INFORMATION PROCEDURE RULES**

#### **1. SCOPE**

These rules apply to all meetings of the Council, the Cabinet, the Overview and Scrutiny Board, the Audit, Standards and Governance Committee, Area Committees and other committees, boards and panels ("meetings") unless a statutory exemption applies. Overview and Scrutiny Task Groups are not covered by these Rules.

These rules also apply to Executive Decisions made by individual officers.

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

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

#### **3. RIGHTS TO ATTEND MEETINGS**

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

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

4.1 The Council will give at least 5 clear days notice of any meeting by posting details of the meeting on the Council website.

4.2 However, in cases of exceptional urgency the Chief Executive, having consulted with the Chairman of the Council or the Chairman of the relevant Committee, Board or Panel, may convene a meeting giving less than 5 clear days' notice. The agenda and minutes of the meeting shall specify the nature of the exceptional urgency.

4.3 For the avoidance of doubt, where the term "clear days" is used, this does not include statutory and concessionary holidays, the day on which notice is given, the day of the meeting or any Saturday or Sunday.

#### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

5.1 The Council will make copies of the agenda and reports open to the public available for inspection at Parkside at least 5 clear days before the meeting. Copies of the agenda and reports for all meetings will be sent to all members of the Council at least 5 clear days before the meeting.

5.2 Items will only be added to an agenda less than 5 clear days before the date of the meeting in cases of exceptional urgency and only if the officer or member presenting the item has, before the meeting, submitted to the Head of Legal, Equalities & Democratic Services a form signed or approved by

the Chairman of the Council or the relevant Committee as appropriate giving reasons why:

- (a) the item could not have been included on the agenda; and
- (b) the item required a decision before the next scheduled meeting of the Council or Committee.

5.3 If an item is added to the agenda less than 5 clear days before the date of the meeting, the revised agenda will be open to inspection from the time the item was added to the agenda.

5.4 In cases of exceptional urgency where less than 5 days' notice of a meeting is given, copies of the agenda and reports will be made available and shall be open to inspection from the time the meeting is convened.

## 6. **SUPPLY OF COPIES**

The Council will supply copies of:

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

to any person on payment of a charge for postage and any other costs.

## 7. **WITHDRAWAL OF ITEMS FROM AN AGENDA**

Items on the agenda for meetings of the Council, Cabinet, Audit, Standards and Governance Committee and Overview and Scrutiny Board will not be withdrawn less than 3 clear calendar days before the date of the meeting except in exceptional circumstances and only when the Chairman of the Council, the Leader or the Chairman of the Board as appropriate has agreed to the item being withdrawn at that time.

## 8. **ACCESS TO MINUTES ETC. AFTER THE MEETING**

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

- (a) the minutes of the meeting, or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the

minutes of proceedings which disclose exempt or confidential information;

- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## 9. BACKGROUND PAPERS

### 9.1 List of background papers

The Chief Executive will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report of an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 11), and in respect of Cabinet reports, the advice of a political advisor.

### 9.2 Public inspection of background papers

When a report for a meeting is made available for Cabinet meetings the Council will also make available at its office and on its website, one copy of each of the background papers referred to in the list prepared under rule 9 above.

These background papers will be available for public inspection for 4 years after the date of the meeting. Copies of background papers will be supplied to any person on payment of a charge for postage and any other costs.

## 10. SUMMARY OF THE RIGHTS OF THE PUBLIC

These Rules constitute a summary of the rights of the public to attend meetings and to inspect and copy documents. These Rules will be kept at and available to the public at Parkside, Bromsgrove. .

**11. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

**11.1 Confidential information - requirement to exclude public**

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

**11.2 Exempt information - discretion to exclude public**

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

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

**11.3 Meaning of confidential information**

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

**11.4 Meaning of exempt information**

Exempt information means information falling within the following categories (subject to any condition):

Category	Condition
1. Information relating to any individual.	<p>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.</p> <p>Information 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.</p>

# Agenda Item 9

## PART 9

Category	Condition
<p>2. Information which is likely to reveal the identity of any individual.</p>	<p>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.</p> <p>Information 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.</p>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p>	<p>"Financial or business affairs" includes contemplated, as well as past or current, activities.</p> <p>Information falling within paragraph 3 is not exempt by virtue of that paragraph if required to be registered under:</p> <ul style="list-style-type: none"> <li>a) the Companies Act 1985</li> <li>b) the Friendly Societies Act 1974</li> <li>c) the Friendly Societies Act 1992</li> <li>d) the Industrial and Provident Societies Acts 1965 to 1978</li> <li>e) the Building Societies Act 1986</li> <li>f) the Charities Act 1993.</li> </ul> <p>"Registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).</p> <p>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.</p>

# Agenda Item 9

## PART 9

Category	Condition
	<p>Information 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.</p>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>"Employee" means a person employed under a contract of service.</p> <p>"Labour relations matter" means:</p> <ul style="list-style-type: none"> <li>a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</li> <li>b) any dispute about a matter falling within paragraph (a) above;</li> </ul> <p>and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority.</p> <p>"office holder", in relation to the authority means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</p> <p>Information 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.</p>

Category	Condition
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	<p>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.</p> <p>Information 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.</p>
<p>6. Information which reveals that the authority proposes:</p> <p>(a) to give, under any enactment, a notice under, or by virtue of, which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>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.</p> <p>Information 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.</p>
7. Information relating to any action taken, or be taken, in connection with the prevention, investigation or prosecution of crime.	Information 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.

## 12. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

In some cases the Council may consider an item in public although the report it is discussing contains some exempt information. In all cases a public summary of the item will be provided after the meeting, usually as part of the minutes of the meeting.

The Cabinet will indicate on its Work programme where it is likely to exclude the public from a meeting or part of a meeting. Members of the public can make representations to the Council if they feel that the item should be considered in public. Rule 15 below refers to this in more detail.

### 13. **APPLICATION OF RULES TO THE CABINET**

Rules 14-24 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a Key Decision then it must also comply with Rules 1-12 unless either Rule 16 (General Exception) or Rule 17 (Special Urgency) applies. A Key Decision is as defined in Article 13.3 of this Constitution.

### 14. **PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 16 (General Exception) and Rule 17 (Special Urgency), a Key Decision may not be taken unless:

- (a) a notice (called here a Work Programme) has been published in connection with the matter in question;
- (b) at least 28 days have elapsed since the publication of the Work Programme.

### 15. **THE WORK PROGRAMME**

#### 15.1 **Period of Work Programme**

Work Programmes will be prepared by the Leader to cover a period of at least 28 days. They will be prepared on an approximately monthly basis and published at least 28 days before the first meeting of the Cabinet to which Key decisions on the Programme relate.

#### 15.2 **Contents of the Work Programme**

The Work Programme will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers or under joint arrangements in the course of the discharge of an Cabinet function during the period covered by the Programme. It will describe the following items in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a key decision is to be made;



- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) a list of the documents submitted to the decision-maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (f) that other documents relevant to those matters may be submitted to the decision maker; and
- (g) the procedure for requesting details of those documents (if any) as they become available..
- (h) which of the key decisions outlined may involve the consideration of exempt or confidential information, the reasons why and how the public may make representations when they consider the item should be considered in public.

The Work Programme must be published at least 28 days before the start of the period covered.

Exempt information need not be included in the Work Programme and confidential information cannot be included.

### 16. **GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the Work Programme, then subject to Rule 17 (Special Urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Work Programme;
- (b) the Chief Executive has informed the Chairman of the Overview and Scrutiny Board, or in his/her absence each member of the Board by notice, of the matter about which the decision is to be made;
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council and published it on the Council's website; and

- (c) at least 5 clear days have elapsed since the Chief Executive complied with (a) and (b).

The notice should include reasons why it has not been possible to include the item on the Work Programme.

### 17. **SPECIAL URGENCY**

If the date by which a decision must be taken means that Rule 16 (General Exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Board, or in his/her absence the Vice-Chairman, that the taking of the decision is urgent and cannot be reasonably deferred.

If the Chairman of the Overview and Scrutiny Board, or in his/her absence the Vice-Chairman, is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman, will suffice.

As soon as reasonably practicable after the decision-maker has agreement that the decision is urgent and cannot reasonably be deferred, they must publish a notice on the Council's website setting out the reasons why the meeting is urgent. The notice must also be available at the Council's offices for members of the public to see.

### 18. **REPORT TO COUNCIL**

#### 18.1 **When the Overview and Scrutiny Board can require a report**

If the Overview and Scrutiny Board considers that a Key Decision has been taken which was not:

- (a) included in the Work Programme; or
- (b) the subject of the general exception procedure (Rule 16); or
- (c) the subject of an agreement with the Chairman of the Overview and Scrutiny Board, or in his/her absence the Vice-Chairman, or the Chairman/Vice-Chairman of the Council under the Special Urgency procedure (Rule 17)

the Overview and Scrutiny Board may, subject to Rule 18.2, require the Cabinet to submit a report to the next available meeting of the Council. The power to require a report rests with the Overview and Scrutiny Board, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Overview and Scrutiny Board when so requested by the Chairman or Vice-Chairman of the Overview and Scrutiny Board or any three

members of the Overview and Scrutiny Board. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Board.

### 18.2 **Cabinet 's report to Council**

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council falls within 7 days of receipt of the written notice or the resolution of the Overview and Scrutiny Board, then the report may be submitted to the following meeting of the Council. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision, the reasons for that opinion.

### 18.3 **Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 17 (Special Urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## 19. **RECORD OF DECISIONS**

### 19.1 **Meetings**

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include:

- a statement of the reasons for each decision;
- any alternative options considered and rejected at that meeting;
- A record of any conflict of interest relating to the matter declared by any member of the decision-making body;
- For any declared conflict of interest, a note of dispensation granted by the Head of Paid Service (the Chief Executive).

### 19.2 **Officer Decisions**

From time to time, Officers will make decisions that would otherwise be made at meetings of the Cabinet. As soon as practicable after the decision is made the officer will provide a written statement which will include:

- A record of the decision and the date it was made;
- The reasons for the decision;
- Details of alternative options considered and rejected when making the decision;

- Any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision;
- A note of dispensation granted by the Council's Head of Paid Service (the Chief Executive) relating to any declared conflicts of interest.

The Decisions recorded will be those where a matter has been delegated to an officer/s at a meeting of the Cabinet or involves expenditure above £50,000.

### 19.3 **Publication of Decisions**

Once a decision is made under paragraphs 19.1 and 19.2 above, copies of the record of the decision will be published, as soon as reasonably practicable, on the Council's website. Copies will also be available for inspection by members of the public at the Council's offices.

### 20. **CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

Meetings of the Cabinet relating to matters which are not Key Decisions will be held in public and must comply with Rules 1-12.

### 21. **ATTENDANCE AT MEETINGS OF THE CABINET**

- 21.1 All members of the Council are entitled to attend a meeting of the Cabinet. Members of the Council who are not members of the Cabinet may speak at meetings of the Cabinet. Only members of the Cabinet may vote.
- 21.2 All members of the Council are entitled to attend a meeting of a committee of the Cabinet. Members of the Council who are not members of the Cabinet and who are not members of the committee may speak at such meetings. Only members of the committee may vote.
- 21.3 The Head of Paid Service, the Section 151 Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.
- 21.4 A meeting of the Cabinet or any of its committees may only take place in the presence of the Chief Executive or his/her nominee with responsibility for recording and publicising the decisions.
- 21.5 In all cases, the provisions of Rule 19 (Record of Decisions) will apply.

## **22. OVERVIEW AND SCRUTINY BOARD - ACCESS TO DOCUMENTS**

### **22.1 Rights to copies**

Subject to Rule 22.2 below, members of the Overview and Scrutiny Board will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or its committees; or
- (b) any decision taken by an individual member of the Cabinet; or
- (c) Any decision made by an officer in accordance with executive arrangements.

Subject to paragraph 22.2 below, the Cabinet must provide the document requested as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.

### **22.2 Limit on rights**

The Overview and Scrutiny Board will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser.

## **23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **23.1 Material relating to previous business**

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a meeting or to a decision made by an officer in accordance with Executive arrangements, unless (a) (b) or (c) below applies:

- (a) it contains exempt information, unless it is exempt under paragraphs 3 or 6 of the categories of exempt information. However, information which is exempt under paragraph 3 does not have to be disclosed if it related to terms proposed or to be proposed by or to the authority in the course of negotiations for a contract;
- (b) it contains confidential information; or

(c) it contains the advice of a political adviser.

### 23.2 **Material relating to Key Decisions**

All members of the Council will be entitled to inspect any document in the possession or under the control of the Cabinet or its committees, except those available only in draft form, which relates to any key decision unless paragraph (a) (b) or (c) above applies.

### 23.3 **Nature of rights**

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

### **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

#### **1. Definitions**

In these Rules:

"Cabinet" and "Leader" have the same meaning as "executive" and "executive leader" in Part II of the Local Government Act 2000; and "plan or strategy" and "working day" have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.

#### **2. The framework for Cabinet decisions**

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Cabinet to implement it.

#### **3. Process for developing the Framework**

The process by which the Budget and Policy Framework shall be developed is:

- (a) The Cabinet will publicise, by including in the Work Programme, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms or will form part of the Budget and Policy Framework, and its arrangements for consultation after publication of those initial proposals. The Chairman of the Overview and Scrutiny Board will also be notified. The consultation period shall in each instance be not less than 4 weeks.
- (b) At the end of that period, the Cabinet will then draw up a draft plan or strategy having regard to the responses to that consultation. If the Overview and Scrutiny Board wishes to respond to the Cabinet in that consultation process then it may do so. As the Board has responsibility for fixing its own work programme, it is open to the Board to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from the Board into account in drawing up the draft plan or strategy for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- (c) Once the Cabinet has approved the draft plan or strategy, the proper officer will refer them at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may:
  - (i) adopt the Cabinet's draft plan or strategy, in which case, the Council may make a decision which has immediate effect; or

- (ii) agree minor amendments to the Cabinet's draft plan or strategy, and in which case the Council may make a decision which has immediate effect.
- (e) Where the Cabinet has submitted a draft plan or strategy to the Council for its consideration and following consideration of that draft plan or strategy, the Council has significant objections to it, the Council must take the action set out in paragraph (f).
- (f) Before the Council
  - (i) amends the draft plan or strategy; or
  - (ii) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (iii) adopts (with or without modification) the plan or strategy,

it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
- (g) Where the Council gives instructions in accordance with paragraph (f), it must specify a period of at least 5 working days, beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet, within which the Leader may
  - (i) submit a revision of the draft plan or strategy as amended by the Cabinet (the "revised draft plan or strategy"), with the Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration; or
  - (ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- (h) Where the period specified by the Council, referred to in paragraph (g), has expired, the Council must when
  - (i) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
  - (ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or



(iii) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the authority's objections and the Cabinet's reasons for that disagreement, which the Leader has submitted to the Council, or informed the Council of, within the period specified.

- (i) Subject to Paragraph (m) below, where, before 8<sup>th</sup> February in any financial year, the Cabinet submits to the Council for consideration in relation to the following financial year:
- (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992;
  - (ii) estimates of other amounts to be used for the purposes of such a calculation;
  - (iii) estimates of such a calculation; or
  - (iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph (j).

- (j) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (i) (i), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.
- (k) Where the Council gives instructions in accordance with paragraph (j), it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may -
- (i) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or

- (ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- (l) When the period specified by the Council, referred to in paragraph (k), has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph (i) (i), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account -
  - (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (ii) the Cabinet's reasons for those amendments;
  - (iii) any disagreement that the Cabinet has with any of the Council's objections; and
  - (iv) the Cabinet's reasons for that disagreement,which the Leader submitted to the Council, or informed the Council of, within the period specified.
- (m) Paragraphs (i) to (l) shall not apply in relation to -
  - (i) calculations or substitute calculations which the Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
  - (ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.
- (n) In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the Budget and degree of in-year changes to the Policy Framework which may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the Budget and Policy and Framework are reserved to the Council.

#### **4. Decisions outside the Budget or Policy Framework**

- (a) Subject to the provisions of paragraph 6 (virement) the Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers or joint arrangements discharging Cabinet functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by full Council, then that decision may only be taken by the Council, subject to paragraph 5 below.

- (b) If the Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 5 (urgent decisions outside the Budget and Policy Framework) shall apply.

### 5. Urgent decisions outside the Budget or Policy Framework

- (a) The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers or joint arrangements discharging Cabinet functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - i) if it is not practical to convene a quorate meeting of the full Council; and
  - ii) if the Chairman of the Overview and Scrutiny Board agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the Overview and Scrutiny Board's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Overview and Scrutiny Board, the consent of the Chairman of the Council, and in the absence of both the Vice-Chairman of the Council, will be sufficient.

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

### 6. Virement

- (a) In approving its revenue budget each year, the Council will decide the headings (services) into which the Budget is to be divided, and will allocate an amount for expenditure under each heading.
- (b) Steps taken by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet, officers or joint arrangements discharging Cabinet functions to implement Council policy shall not exceed those amounts allocated to each budget head. However, the Cabinet shall be entitled to

vire across budget heads up to a maximum, and within a limit per individual virement specified each year by the Council under Rule 3 (n). Beyond those limits, approval to any virement across budget heads shall require the approval of the full Council.

### 7. **In-year changes to Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers or joint arrangements discharging Cabinet functions must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:

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

### 8. **Call-in of decisions outside the Budget or Policy Framework**

- (a) Where the Overview and Scrutiny Board is of the opinion that a Cabinet decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or Section 151 Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Section 151 Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Section 151 Officer conclude that the decision was a departure, and to the Overview and Scrutiny Board if the Monitoring Officer or the Section 151 Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Section 151 Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Overview and Scrutiny Board may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter.

# Agenda Item 10

## PART 10

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

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

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### **CABINET PROCEDURE RULES**

#### **1. Time and Place of Meeting**

- 1.1 The Cabinet will meet at least 10 times per year at times to be agreed by the Leader.
- 1.2 The place of Cabinet meetings will be determined by the Chief Executive and notified in the agenda.

#### **2. Notice of and Agenda for Meetings**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules in Part 5 of this Constitution. At least five clear days before a meeting the Chief Executive will send an agenda to every member of the Cabinet. The agenda will give the date, time and place of each meeting. The agenda will specify the business to be transacted and will be accompanied by such reports as are available.

#### **3. Who May Attend**

- 3.1 Councillors who are not members of the Cabinet may attend meetings of the Cabinet including any part of such a meeting from which the public is excluded in accordance with the Access to Information Rules in Part 5 of this Constitution.
- 3.2 If the Cabinet is to consider a motion referred to it by the Council the proposer and seconder of that motion (if they are not members of the Cabinet) shall have the right to attend and explain the reasons for the motion.
- 3.3 If the Cabinet is to consider a matter referred to it under paragraph 9.6 below the Councillor proposing the item for consideration will be entitled to attend and address the Cabinet.
- 3.4 All non-members of the Cabinet may attend and speak to any item on the agenda for the meeting, having indicated to the Leader prior to the start of the meeting. The Chairman of the meeting will be responsible for how this is handled.

#### **4. Exclusion of the Public**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 5 of this Constitution or Rule 12 below.

#### **5. Chairmanship**

The Leader will preside at the meeting. In his/her absence the Deputy Leader will preside. If both are absent those present will appoint a member of the Cabinet who is present to preside.

#### **6. Quorum**

6.1 The quorum for a meeting of the Cabinet will be 3.

6.2 The quorum for a meeting of a Cabinet committee shall be 2.

#### **7. Advice from Officers**

7.1 The Leader may invite officers to give advice at a meeting of the Cabinet or any Cabinet committee.

7.2 Whenever the Chief Executive, the Section 151 Officer or the Monitoring Officer considers it appropriate to give advice to the Cabinet they shall be at liberty to do so and the Cabinet shall hear such advice.

#### **8. Business to be Conducted**

At each meeting of the Cabinet the following business will be conducted:

- a. consideration of the accuracy of the minutes of the last meeting;
- b. declarations of interest;
- c. matters referred to the Cabinet (whether by the Overview and Scrutiny Board or the Council) for reconsideration by the Cabinet in accordance with the Budget and Policy Framework Rules or the



Overview and Scrutiny Procedure Rules set out in Parts 10 and 12 of this Constitution;

- d. consideration of minutes and/or reports from the Overview and Scrutiny Board;
- e. consideration of minutes and/or reports from the Audit, Standards & Governance Committee;
- f. when appropriate, consideration of the Leader's report from his/her quarterly meeting with the Chairman of the Overview and Scrutiny Board and the Audit, Standards & Governance Committee ;
- g. consideration of reports from the Leader and/or Portfolio Holders of any decisions taken by them individually pursuant to Article 7.6 of the Constitution;
- h. matters set out in the agenda for the meeting in accordance with paragraph 9 below.

### **9. Items for Consideration by the Cabinet**

- 9.1 The Leader may put on the agenda of any Cabinet meeting any matter which he/she wishes whether or not it relates to a Cabinet function. The Chief Executive will comply with the Leader's requests in this respect.
- 9.2 Any member of the Cabinet may require the Chief Executive to place an item on the agenda of the next available Cabinet meeting for consideration.
- 9.3 The Council may require the Chief Executive to place on the agenda of the next available Cabinet meeting an item for consideration.
- 9.4 The Overview and Scrutiny Board may require the Chief Executive to place on the agenda of the next available Cabinet meeting an item for consideration.
- 9.5 The Audit, Standards & Governance Committee may require the Chief Executive to place on the agenda of the next available Cabinet meeting an item for consideration.
- 9.6 A Councillor (who is not a member of the Cabinet) may request the Leader to place an item on the agenda of the next available meeting of the Cabinet for consideration and the Leader will decide whether the item should be placed on the agenda. In exercising his/her discretion the

- Leader should not act unreasonably and, if refused, reasons for his decision must be given in writing to the Councillor concerned. The Notice of the Meeting will give the name of the Councillor who requested the consideration of the item.
- 9.7 The Monitoring Officer and/or Section 151 Officer may include an item for consideration on the agenda of a meeting of the Cabinet and may require the Chief Executive to call such a meeting in pursuance of their statutory duties.
- 9.8 If any two of the Chief Executive, the Section 151 Officer and the Monitoring Officer are of the opinion that a meeting of the Cabinet needs to consider a matter that requires a decision they may jointly include an item on the agenda of the next available meeting of the Cabinet. If necessary, they may also require that a meeting of the Cabinet be specially convened for consideration of the matter.
- 9.9 The Chief Executive may place on the agenda of the next available meeting of the Cabinet an item to consider a report of a Chief Officer of the Council.
- 9.10 The Cabinet will consider all reports and recommendations presented by the Overview and Scrutiny Board and will provide the Board with a response.
- 9.11 An Overview and Scrutiny Board report which includes one or more proposals which would require a departure from the Budget and Policy Framework will be considered in the first instance by the Cabinet. The Cabinet will decide whether to recommend to the Council that those proposals be implemented. If the Cabinet decides not to recommend to Council that those proposals be implemented, its decision, together with the reasons for that decision, shall be reported back to the Board.

### **10. Urgent Items**

When there is a need to consider items of urgent business which are not on the formal agenda the Councillor wishing to raise the same shall before the start of the meeting discuss the matter with the Leader, the Monitoring Officer and the Chief Executive, and their collective decision shall be conclusive. In the event that the decision required urgently is a Key Decision then the consultees shall also include those listed in Part 9 (Access to Information Rules relating to special urgency).

### **11. Voting**

- 11.1 Any matter will be decided by a simple majority of those present in the room at the time the question was put.
- 11.2 If there are equal numbers of votes for and against, the Chairman of the meeting will have a second or casting vote.
- 11.3 Each item of business requiring a decision by the Cabinet will be moved and seconded before the vote is taken.

### **12. Disturbance by the Public**

If a member of the public interrupts proceedings the Chairman of the meeting may warn the person concerned. If he/she continues to interrupt the Chairman of the meeting may order his/her removal from the meeting room.

### **13. Minutes**

The Chairman of each meeting will sign the minutes of the proceedings as the next suitable meeting.

### **14. Publication of Cabinet Decisions**

- 14.1 A decision made by the Cabinet, or a Key Decision made by an officer with delegated authority from the Cabinet or under joint arrangements, shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 3 working days of being made. All Councillors will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- 14.2 That notice (which may take the form of the minutes of a meeting of the Cabinet) 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 5 working days after the publication of the decision, unless the Chairman of the Overview and Scrutiny Board or three members of the Overview and Scrutiny Board or five members of the Council who are not on the Cabinet object to it and calls it in.

### **15. Exclusion of the Call-In Process**

- 15.1 The call-in procedure set out in the Overview and Scrutiny Procedure Rules in Part 8 of this Constitution shall not apply where the decision being taken by the Cabinet, or a Key Decision made by an officer with delegated authority from the Cabinet, or under joint arrangements, is urgent.
- 15.2 A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests.
- 15.3 The record of the decision and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Overview and Scrutiny Board must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman of the Overview and Scrutiny Board, the Vice-Chairman's consent shall be required. In the absence of both, the Chief Executive or his/her nominee's consent shall be required.
- 15.4 Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

### OVERVIEW AND SCRUTINY PROCEDURE RULES

#### 1. Arrangements for Overview and Scrutiny

- 1.1 The Council will appoint an Overview and Scrutiny Board, as set out in Article 6 of this Constitution.
- a. The Overview and Scrutiny Board will have responsibility for the Council's overview and scrutiny and call-in functions, scrutiny of the budget, petitions, Councillor Calls for Action and scrutiny of the Crime and Disorder Reduction Partnership.
  - b. The Overview and Scrutiny Board will establish time limited Task Groups, the terms of reference of which will be agreed by the Board, to investigate issues in depth and agree reports prepared by the Task Groups; or itself undertake selected reviews.
  - c. The Overview and Scrutiny Board will have responsibility for monitoring performance improvement, identifying unsatisfactory progress or performance and making recommendations on remedial action to the Cabinet
  - d. The Overview and Scrutiny Board will have responsibility for monitoring the Council Plan and the Sustainable Community Strategy and making recommendations to Cabinet.
- 1.2 The Overview and Scrutiny Board will comprise 11 Councillors. All Councillors except members of the Cabinet may be members of the Overview and Scrutiny Board.
- 1.3 Where a Member of the Overview and Scrutiny Board is unable to attend a board meeting a substitute may attend in his or her place. The ability to appoint a substitute may only be exercised by Board members on up to two occasions during each municipal year. This rule does not apply to task group meetings.
- 1.4 The Overview and Scrutiny Board may (except in relation to call-ins) appoint such Task Groups as it considers appropriate to enable it to perform the overview and scrutiny functions on behalf of the Council. The size of each Task Group will vary according to the purpose for which it is established. The terms of reference, the chairmanship and membership shall be agreed by the Board. .

### **2. Co-optees**

- 2.1 The Board shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees of the Board.

### **3. Meetings of the Boards**

- 3.1 There shall be at least 9 ordinary meetings of the Overview and Scrutiny Board in each year.
- 3.2 There shall be not less than 1 meeting every 12 month period of the Overview and Scrutiny Board in its capacity to scrutinise and review the Council's responsibilities for the crime and disorder functions.
- 3.3 Extraordinary meetings may be called from time to time as and when appropriate.
- 3.4 An extraordinary meeting may be called by the Chairman of the Board or by any 3 members of the Board.

### **4. Quorum**

The quorum for meetings of the Overview and Scrutiny Board shall be 6.

### **5. Participation in Meetings**

No member may be involved in scrutinising a decision in which he/she has been directly involved. If any member of a Board finds that a decision in which he/she has been directly involved is to be scrutinised, he/she shall declare the fact to the relevant Board and take no part in the discussion and voting in the part of the meeting which relates to that decision.

### **6. Chairman**

- 6.1 At its first meeting following the Annual Council Meeting the Board will:
- a. appoint one of its members as Chairman; and
  - b. appoint one of its members as Vice-Chairman.

### **7. Work Programme**

**7.1** The Overview and Scrutiny Board will be responsible for setting its own work programme and in doing so shall make provision for:-

- a. the views of members of the Overview and Scrutiny Board who are not members of the largest political group on the Council;
- b. the Cabinet Work Programme;
- c. suggestions of matters for scrutiny made by the Council or by Cabinet;
- d. suggestions of matters for scrutiny made by the Leader arising from his/her quarterly meeting with the Chairmen of the Overview and Scrutiny Board and Audit, Standards & Governance Committee in accordance with paragraph 7.2 below;
- e. suggestions of matters for scrutiny made by Councillors, members of the public or partner organizations;
- f. Councillor Calls for Action;
- g. Scrutiny of the Crime and Disorder Reduction Partnership;
- h. Petitions referred to the Overview and Scrutiny Board by the Chief Executive and Monitoring Officer;
- i. Scrutiny of the budget (Medium Term Financial Plan);

**7.2** The Leader shall meet quarterly with the Chairman of the Overview and Scrutiny Board and Audit, Standards & Governance Committee with appropriate officers in attendance to review and, where appropriate, co-ordinate their respective work programmes.

### **8. Procedure at Board meetings**

**8.1** The Overview and Scrutiny Board shall at each meeting consider the following business:

- a. consideration of the accuracy of the minutes of the last meeting;
- b. declarations of interest (including whipping declarations);

- c. responses of the Cabinet to reports of the Overview and Scrutiny Board;
- d. the Cabinet Work Programme;
- e. progress on on-going overview and scrutiny exercises (if appropriate);
- f. reports from the quarterly meetings between the Leader and Chairmen of the Overview and Scrutiny Board and Audit, Standards & Governance Committee (if appropriate);
- g. matters set out on the agenda for the meeting in accordance with paragraph 9 below;
- h. consideration of any matters referred to the Overview and Scrutiny Board in relation to call-in of a decision;
- i. any petitions referred by the Chief Executive or the Monitoring Officer;
- j. any Councillor Calls for Action which have been received;
- k. scrutiny of the Medium Term Financial Plan ( if appropriate);and
- l. scrutiny of the Crime and Disorder Reduction Partnership.

### **9. Agenda items**

- 9.1** Any member of the Board shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Board to be included on the agenda for the next available meeting of the Board. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.
- 9.2** Where a matter is referred to the Board by the Council (including a matter referred by the Monitoring Officer under Council Procedure Rule 11.10), it shall be considered at either the first or second ordinary meeting of the Board following the referral.
- 9.3** The Board shall also respond, as soon as their work programme permits, to requests to review particular areas of Council activity from the Council, the Cabinet or the Leader (arising from his/her quarterly meeting with the Chairmen of the Overview and Scrutiny Board, and Audit, Standards & Governance Committee).



### **10. Rights of Board members to documents**

**10.1** In addition to their rights as Councillors, members of the Board have the additional right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in part 9 of the Constitution.

**10.2** Nothing in this paragraph prevents more detailed liaison between the Cabinet and/or the Board as appropriate depending on the particular matter under consideration.

### **11. Policy review and development**

**11.1** The role of the Board in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules in Part 10 of the Constitution.

**11.2** In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Board may make proposals to Cabinet for developments in so far as they relate to matters within their terms of reference.

**11.3** The Board and any Task Group may:

- a. hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process;
- b. conduct site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations;
- c. ask witnesses to attend to address them on any matter under consideration;
- d. pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so, provided that the budget set by the Council each year for such purposes is not exceeded.

### **12. Members and officers giving account**

**12.1** The Board or a Task Group 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 any member of the Cabinet, the Chief Executive and/or any senior officer 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; and/or
- c. his/her performance

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

**12.2** If any Councillor or officer is required to attend meetings of the Board, or a Task Group under this provision, the Councillor or officer will be given reasonable notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Board or Task Group. Where the account to be given to the Board will require the production of a report, then the Councillor or officer concerned will be given sufficient notice to allow for preparation of that documentation.

**12.3** If the Councillor or officer is unable to attend on the required date, the Board or Task Group shall in consultation with the Councillor or officer arrange an alternative date for attendance.

### **13. Attendance by others**

**13.1** The Board and/or Task Groups may invite people other than those people referred to in paragraph 12 above to attend a meeting to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. The person invited will be given reasonable notice and the notice will state the nature of the item on which he/she is invited to attend and whether any papers are requested.

**13.2** If the Board is to consider a motion referred to it by the Council meeting, the proposer and seconder of the motion shall (if they are not members of the Board) have the right to attend the relevant meeting and to explain the reasons for their motion, although they may not propose, second or vote on recommendations by the Board which arise from that motion.

**13.3** If the Board or a Task Group invites a person to address a meeting or to give evidence, the following principles will be observed:

- a. the investigation will be conducted fairly and all members of the Board or Task Group will be given the opportunity to ask questions of attendees, and to contribute and speak;
- b. those assisting the Board or Task Group by giving evidence will be treated with respect and courtesy; and
- c. the investigation will be conducted so as to maximise the efficiency of the investigation or analysis.

### **14. Reports from the Board**

- 14.1** Once it has formed recommendations on proposals for development, the Board will make its report and findings public and will submit a formal report to the Chief Executive for consideration by the Cabinet.
- 14.2** If the Board cannot agree on one single final report to the Council or Cabinet as appropriate, then no more than one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- 14.3** The Cabinet shall consider the report of the Board within two months of it being submitted to the Chief Executive and shall issue a formal response to the report.

### **15. Consideration of Overview and Scrutiny Board Reports by the Cabinet**

- 15.1** The agenda for Cabinet meetings shall include an item to consider minutes and/or reports from the Board and reports of the Board referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) within two months of the Board completing its report/recommendations.
- 15.2** The Cabinet will consider all reports and recommendations presented by the Board and will provide the Board with a response.
- 15.3** A Board report which includes one or more proposals which would require a departure from the Budget and Policy Framework will be considered in the first instance by the Cabinet. The Cabinet will decide whether to recommend to the Council that those proposals be implemented. If the Cabinet decides not to recommend to Council that those proposals be implemented, its decision, together with the reasons for that decision, shall

be reported back to the Board. The Board may then request the Chief Executive to place an item on the next available meeting of the Council to enable the Council to consider those proposals.

- 15.4** Once a report has been considered by the Cabinet and/or Council, and any questions or issues raised by the Cabinet and/or Council have been resolved, the Board will disband any Task Group appointed in connection with the preparation of that report.

### **16. Review of Overview and Scrutiny Board Reports**

The Board will review implementation of recommendations made in any report not sooner than 12 months after consideration of its report by the Cabinet.

### **17. Call-in**

- 17.1** Call-in should only be used in exceptional circumstances when members of the Overview and Scrutiny Board have evidence which suggests that the Cabinet did not take a decision in accordance with the principles of Decision Making in Article 13. Those principles are:-

- a. proportionality (i.e. the action must be proportionate to the proposed outcome);
- b. due consultation and the taking of professional advice from officers;
- c. respect for human rights;
- d. a presumption in favour of openness;
- e. clarity of aims and desired outcomes;
- f. due regard for the Council's environmental objectives;
- g. due regard for the Council's duties in relation to crime and disorder;
- h. clear explanations of the options considered and the reasons for the decision reached.

- 17.2** When a decision is made by the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the

Council normally within 3 working days of being made. All members of the Council will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

**17.3** That decision (which may take the form of the minutes of a meeting of the Cabinet) 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 5 working days after the publication of the decision, unless the decision is the subject of a valid request for call-in.

**17.4** A valid request is required to initiate call-in a decision referred to at 17.3 above. The request must be in writing addressed to the Monitoring Officer on the approved form (at Appendix B) giving the reasons for the request for call-in and must be:-

- signed by the Chairman of the Overview and Scrutiny Board; or
- signed by any other 3 members of the Overview and Scrutiny Board; or
- signed by any 5 members of the Council who are not members of the Cabinet

and in any case must:-

- state the reason(s) for the call-in; and
- be delivered to the Monitoring Officer by hand, post or email, within 5 clear working days of the publication of the decision.

The decision on whether the call-in is valid will be taken by the Monitoring Officer following consultation with the Chairman of the Overview and Scrutiny Board. The final decision shall rest with the Monitoring Officer. If the Monitoring Officer decides the call-in is valid the Monitoring Officer will notify the Chief Executive, who will notify the decision-taker of the request for call-in.

**17.5** Implementation of the decision which is the subject of the call-in will be suspended from the date of receipt of the request for call-in pending consideration by the Overview and Scrutiny Board.

**17.6** The call-in will be considered by the Overview and Scrutiny Board at either:

- a. the next scheduled meeting of the Overview and Scrutiny Board; or

- b. a special meeting of the Overview and Scrutiny Board to be convened by the Chief Executive within 10 working days of receipt of the request to call-in, or such other date as may be agreed by the Chief Executive in consultation with the author of the call-in and the Chairman of the Overview and Scrutiny Board.
- 17.7** The Overview and Scrutiny Board will determine the call-in in such manner as it considers appropriate but in any event expeditiously and within a maximum of 20 working days from the date of the meeting at which the call-in is first considered by the Board. If more detailed evidence or consideration of the issues is required to determine the call-in, the Board may during that period hold one or more additional meetings to determine the call-in.
- 17.8** The Overview and Scrutiny Board may require the relevant Cabinet member with responsibility or another member of the Cabinet, if appropriate, to attend any meeting and explain the decision taken by Cabinet.
- 17.9** Having considered the decision subject to the call-in the Overview and Scrutiny Board will either:
- a. accept the decision without qualification or comment; or
  - b. require reconsideration of the decision setting out its reasons in a report; or
  - c. in exceptional circumstances refer the decision to the Council to consider whether the decision should be accepted without qualification or comment or reconsidered.
- 17.10** Exceptional circumstances referred to in paragraph 17.9c include, but are not limited to, decisions which the Overview and Scrutiny Board considers:-
- a. the Cabinet cannot in law take; or
  - b. is reserved to the Council; or
  - c. is contrary or not wholly in accordance with the Budget and Policy Framework.
- 17.11** If the Overview and Scrutiny Board accepts the decision without qualification or comment under paragraph 17.9a the decision may be implemented with immediate effect.

- 17.12** If the Overview and Scrutiny Board refers the decision to the Cabinet for reconsideration under paragraph 17.9b implementation of the decision is deferred pending the meeting of the Cabinet at which it is reconsidered.
- 17.13** If the Overview and Scrutiny Board refers the decision to the Council under paragraph 17.9c implementation of the decision is deferred pending the meeting of the Council at which it is considered. If the Council decides to request the Cabinet to reconsider the decision, implementation of the decision remains deferred until the Cabinet has reconsidered the matter.
- 17.14** Any report of the Overview and Scrutiny Board or Council pursuant to paragraph 17.9b or c will be submitted to the Cabinet which will consider that report within 10 working days and either:-
- a. confirm the decision without modification; or
  - b. confirm the decision with modification; or
  - c. rescind the decision and if considered appropriate take a new one.

In each case the Cabinet must give reasons for its decision. The decision taken by the Cabinet following consideration of the report of the Overview and Scrutiny Board or Council on the call-in is final.

- 17.15** The Chairman or Vice-Chairman of the Overview and Scrutiny Board may attend any meeting of the Cabinet at which a report of the Overview and Scrutiny Board is being considered and may speak but not vote.
- 17.16** Any decision may be called in only once in respect any decision.
- 17.17** The call-in procedure shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the interest of either the Council or public. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Overview and Scrutiny Board must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman of the Board, the Vice-Chairman's consent shall be required. In the absence of both, the Chief Executive or his/her nominees' consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency

**17.18** The operation of the provisions relating to call-in and urgency shall be monitored annually by the Overview and Scrutiny Board, and a report submitted to Council with proposals for review if necessary.

### **18. The party whip**

When considering any matter in respect of which a member of the Overview and Scrutiny Board is subject to a party whip, the Councillor must declare the existence of the whip and the nature of it before the commencement of the Board's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### **19. Petitions**

All petitions shall be dealt with in accordance with the Council's Petition Scheme.



### **AUDIT, STANDARDS AND GOVERNANCE COMMITTEE PROCEDURE RULES**

#### **1. Role of the Audit, Standards and Governance Committee**

- 1.1 The Council has established an Audit, Standards and Governance Committee.
- 1.2 The Committee works independently of the Council's Executive and Scrutiny to provide assurance to the Council on the effectiveness of its governance arrangements .
- 1.3 The ultimate responsibility for audit rests with the Portfolio Holder with responsibility for finance and the Section 151 Officer. Therefore the Audit, Standards and Governance Committee can make recommendations but it is not the role of the Committee to be a substitute for management of Internal Audit.
- 1.4 The Audit, Standards and Governance Committee do not have the power to make decisions with regard to Internal Audit or to direct officers with regard to Internal Audit.
- 1.5 The Committee shall work in partnership with the Council's Monitoring Officer, Deputy Monitoring Officer, Leaders of the Political Groups and the Portfolio Holder with responsibility for corporate governance to support the promotion and maintenance of high standards of conduct by Councillors and co-opted members of Council bodies.

#### **2. Terms of Reference**

- 2.1 The terms of reference of the Audit, Standards and Governance Committee are as follows:

To provide independent assurance to the Council in relation to:

- a. The effectiveness of the Council's governance arrangements, risk management framework and internal control environment, including overseeing:
  - Risk management strategies;
  - Anti-fraud arrangements;
  - Whistle-blowing strategies;
  - Internal and external audit activity
  - Democratic Governance

- b. the effectiveness of the Council's financial and non-financial performance to the extent it affects exposure to risk and poor internal control;
- c. the annual governance statement.
- d. The review of the annual statement of accounts, confirming the appropriate accounting policies have been followed, including the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### Appointment of External Auditors

- e. To arrange the recruitment and operation of the Council's Auditor Panel and to recommend the appointment of external auditors in accordance with the requirements of the Audit and Accountability Act 2014.

### Standards

- f. Promote and maintain high standards of conduct by Councillors and any co-opted members of Council bodies.
- g. Assist Councillors and co-opted members to observe the Members' Code of Conduct.
- h. Advise the Council on the adoption or revision of the Members' Code of Conduct.
- i. Monitor the operation of the Members' Code of Conduct.
- j. Advise, train or arrange to train Councillors and co-opted members on matters relating to the Members' Code of Conduct.
- k. Formulate advice for Members and officers on declarations of gifts and hospitality and monitor and review the arrangements for recording interests, gifts and hospitality.
- l. Grant dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct.
- m. For both District and Parish Councils, deal with any report from the Monitoring Officer following an investigation into a complaint concerning the Members' Code of Conduct.

# Agenda Item 13

## PART 13

- n. For both District and Parish Councils, consider and determine allegations that a Councillor or co-opted Councillor may have failed to follow the Code of Conduct and where a breach of the Code is established, impose sanctions as delegated by full Council or make recommendations as to any sanctions to the appropriate person or body.
  - o. Monitor and review the operation of the Protocol on Member-Officer relations.
  - p. Monitor and review the operation of the Protocol on Member-Member relations.
- 2.2 Within those terms of reference, the Audit, Standards and Governance Committee will:

### Audit

- a. agree the annual and strategic audit plans;
- b. review Internal Audit's progress against the audit plan and consider Internal Audit performance measures;
- c. receive and consider a summary of work undertaken by Internal Audit since the last meeting, plus current status;
- d. receive and consider executive summaries of financial process/procedures;
- e. receive and consider executive summaries of Value For Money reports;
- f. receive and consider executive summaries of contract audit reports;
- g. receive and consider executive summaries of any special investigations undertaken by Internal Audit.
- h. receive and consider a chronological summary of Internal Audit reports awaiting departmental response and address any evident problems.
- i. monitor the proportion of key recommendations actioned since the previous meeting.
- j. consider all external audit reports including the Annual Audit Letter.

### Standards

- k. deal with any report from the Monitoring Officer following an investigation into a complaint concerning the Members' Code of Conduct.
- l. through the operation of a Hearings Sub-Committee, consider and determine allegations that a Councillor or co-opted member may have failed to follow the Code of Conduct and where a breach of the Code is established impose sanctions as delegated by Full Council or make recommendations as to any sanctions to the appropriate person or body.
- m. the exercise of k – l above in relation to the Parish Councils in the Council's area and the members of those Parish Councils.

### **3. Composition**

- 3.1 The Audit, Standards and Governance Committee will comprise 9 Councillors. All Councillors except members of the Cabinet may be members of the Audit, Standards and Governance Committee.
- 3.2 The Portfolio Holder with responsibility for finance shall be expected to attend each meeting of the Audit, Standards and Governance Committee. He/she may participate in the meeting but may not vote.

### **4. Co-optees**

- 4.1 The Audit, Standards and Governance Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees of the Committee.
- 4.2 The Audit, Standards and Governance Committee will include among its membership 2 Parish Representatives, who may not also be District Councillors.

### **5. Chairman**

At its first meeting following the Annual Council Meeting the Audit and, Governance Committee will:

- a. appoint one of its members as Chairman; and
- b. appoint one of its members as Vice-Chairman.

### **6. Meetings of the Audit, Standards and Governance Committee**

- 6.1 There shall be at least 4 ordinary meetings of the Audit, Standards and Governance Committee in each year.
- 6.2 Extraordinary meetings may be called from time to time as and when appropriate.
- 6.3 A meeting of the Audit, Standards and Governance Committee may be called by the Chairman of the Committee, by any 4 members of the Audit, Standards and Governance Committee or by the Chief Executive or Monitoring Officer if he/she considers it necessary or appropriate.
- 6.4 Where a Member of the Audit, Standards and Governance Committee is unable to attend a meeting of the Committee a substitute may attend in his or her place-

### **7. Quorum**

The quorum for a meeting of the Audit, Standards and Governance Committee shall be 5 voting members.

### **8. Attendance of officers at meetings**

- 8.1 The Section 151 Officer or his/her deputy shall be expected to attend each meeting of the Audit, Standards and Governance Committee.
- 8.2 The Monitoring Officer or his/her deputy shall be expected to attend each meeting of the Audit, Standards and Governance Committee.
- 8.3 The Audit Services Manager or his/her deputy shall be expected to attend each meeting of the Audit, Standards and Governance Committee.

### **9. Participation in Meetings**

No member of the Audit, Standards and Governance Committee may be involved in the consideration of a decision in which he/she has been directly involved. If any member of the Audit, Standards and Governance Committee finds that a decision in which he/she has been directly involved is to be considered, he/she shall declare the fact to the Committee and

take no part in the discussion and voting in the part of the meeting which relates to that decision.

### **10. Work Programme**

- 10.1 The Audit, Standards and Governance Committee will be responsible for setting its own work programme and in doing so shall take into account of:
- a. the views of members of the Audit, Standards and Governance Committee who are not members of the largest political group on the Council;
  - b. suggestions of matters for consideration made by the Cabinet;
  - c. suggestions of matters for consideration made by the Council;
  - d. the views of the Auditor Panel regarding the maintenance of an independent relationship with the local auditor appointed to audit the Council's accounts.

### **11. Procedure at Audit, Standards and Governance Committee meetings**

The Audit, Standards and Governance Committee shall at each meeting consider the following business:

- a. consideration of the accuracy of the minutes of the last meeting;
- b. declarations of interest;
- c. responses of the Cabinet to reports of the Audit, Standards and Governance Committee; and
- d. matters set out on the agenda for the meeting in accordance with paragraph 12 below.

### **12. Agenda items**

- 12.1 Any member of the Audit, Standards and Governance Committee shall be entitled to give notice to the Section 151 Officer or Monitoring Officer that he/she wishes an item relevant to the functions of the Audit, Standards and Governance Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the

Section 151 Officer or Monitoring Officer will ensure that it is included on the next available agenda.

- 12.2 Where a matter is referred to the Audit, Standards and Governance Committee by the Council, it shall be considered at either the first or second ordinary meeting of the Committee following the referral.
- 12.3 The Audit, Standards and Governance Committee shall also respond, as soon as its work programme permits, to requests from the Council or the Cabinet to review particular areas of Council activity. The Audit, Standards and Governance Committee shall report its findings and any recommendations back to Council or Cabinet (as appropriate).

### **13. Investigations and Enquiries**

The Audit, Standards and Governance Committee may

- a. hold enquiries and investigate the available options for the future direction of Internal Audit and may appoint advisers and assessors to assist them in this process;
- b. conduct site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform the Audit, Standards and Governance Committee in its deliberations;
- c. invite witnesses to attend to address the Audit, Standards and Governance Committee on any matter under consideration;
- d. pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so, provided that any budget set by the Council each year for such purposes is not exceeded.

### **14. Members and officers giving account**

- 14.1 The Audit, Standards and Governance Committee may review internal control mechanisms and systems that exist in any Council department. As well as reviewing documentation, in fulfilling its terms of reference, it may require any member of the Cabinet, the Chief Executive and/or any senior officer 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; and/or

- c. his/her performance
- and it is the duty of those persons to attend if so required.
- 14.2 If any Councillor or officer is required to attend meetings of the Audit, Standards and Governance Committee under this provision, the Councillor or officer will be given reasonable notice in writing of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Audit, Standards and Governance Committee. Where the account to be given to the Audit, Standards and Governance Committee will require the production of a report, then the Councillor or officer concerned will be given sufficient notice to allow for preparation of that documentation
  - 14.3 If the Councillor or officer is unable to attend on the required date, the Audit, Standards and Governance Committee shall in consultation with the Councillor or officer arrange an alternative date for attendance.
- 15. Attendance by others**
- 15.1 The Audit, Standards and Governance Committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. The person invited will be given reasonable notice and the notice will state the nature of the item on which he/she is invited to attend and whether any papers are requested.
  - 15.2 If the Audit, Standards and Governance Committee is to consider a motion referred to it by the Council meeting, the proposer and seconder of the motion shall (if they are not members of the Audit, Standards and Governance Committee) have the right to attend the relevant meeting and to explain the reasons for their motion, although they may not propose, second or vote on recommendations by the Committee which arise from that motion.
  - 15.3 If the Audit, Standards and Governance Committee invites a person to address a meeting or to give evidence, the following principles will be observed:
    - a. the investigation will be conducted fairly and all members of the Audit, Standards and Governance Committee will be given the opportunity to ask questions of attendees, and to contribute and speak;



- b. those assisting the Audit, Standards and Governance Committee by giving evidence will be treated with respect and courtesy; and
- c. the investigation will be conducted so as to maximise the efficiency of the investigation or analysis.

### **16. Reports from Audit, Standards and Governance Committee**

- 16.1 Once it has formed recommendations on proposals for development, the Audit, Standards and Governance Committee will make its findings public and will report to the Cabinet.
- 16.2 The Audit, Standards and Governance Committee may report directly to full Council where the Section 151 Officer, the Monitoring Officer and/or Internal Audit Shared Services Manager advises the Audit, Standards and Governance Committee that it is appropriate to do so.
- 16.3 If the Audit, Standards and Governance Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then no more than one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- 16.4 The Council or the Cabinet shall consider the report of the Audit, Standards and Governance Committee within two months of it being submitted.

### **17. Consideration of Audit, Standards and Governance Committee Reports by the Cabinet**

The agenda for Cabinet meetings shall include an item at which minutes and/or reports of the Audit, Standards and Governance Committee will be considered. The minutes and/or reports of the Audit, Standards and Governance Committee referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda).

### **18. The party whip**

The party whip must not be applied at Audit, Standards and Governance Committee meetings.

### 19. Finance.

The Audit, Standards and Governance Committee may exercise overall responsibility for any finances made available to it.

### **PLANNING COMMITTEE PROCEDURE RULES**

#### **1. Terms of Reference of Planning Committee**

- 1.1 The Council will appoint a Planning Committee.
- 1.2 The Terms of Reference of the Planning Committee are set out in Part 5 of the Constitution.

#### **2. Time and Place of Meetings**

- 1.1 There shall be at least 10 meetings of the Planning Committee each year.
- 1.2 The time and place of Planning Committee meetings will be determined by the Chief Executive and notified in the agenda.

#### **3. Composition of the Planning Committee**

- 3.1 The Planning Committee will comprise 11 Councillors.
- 3.2 Article 8.4 of the Articles at Part 2 of this Constitution applies to the Planning Committee.
- 3.3 Members of the Planning Committee who cannot attend a particular meeting may arrange for a substitute to attend in his or her place provided that they have completed the appropriate training.
- 3.4 The Leader of the Council cannot be a member of the Planning Committee and cannot sit as a substitute on the Planning Committee.

#### **4. Chairman**

- 4.1 The Planning Committee will appoint one of its members as Chairman at its first meeting following the Annual Council Meeting.
- 4.2 The Chairman of the Planning Committee cannot be a member of the Cabinet.

#### **5. Quorum**

The quorum for a meeting of the Planning Committee is 6.

#### **6. Application of Council Procedure Rules**

The Council Procedure Rules (as specified in Council Procedure Rule 22) will apply to all meetings of the Planning Committee except as modified by these Rules.

### **7 Procedure for Determining Applications for Planning Permission**

- 7.1 An officer will present the report of the Head of Planning and Regeneration Services.
- 7.2 Members of the public who have registered to speak may address the meeting when invited to do so by the Chairman and in accordance with the public speaking rules.
- 7.3 Ward members who have registered to speak may then address the meeting when invited to do so by the Chairman and in accordance with both the public speaking rules and these Procedure Rules.
- 7.4 The Chairman will invite members of the Committee to address the meeting. With the consent of the Chairman, members of the Committee are entitled to address the meeting more than once.
- 7.5 Before taking the vote the Chairman will read out the recommendation of the Head of Planning and Regeneration Services and ascertain if any member of the Committee wishes to put forward an alternative recommendation.
- 7.6 If no alternative recommendation is put forward the Chairman will proceed to the vote.
- 7.7 If one or more alternative recommendations are put forward the Chairman will:
  - (a) request each member who puts forward an alternative recommendation to read out the alternative recommendation and specify the reasons for the alternative recommendation;
  - (b) invite the Head of Planning and Regeneration Services to advise the Committee on the extent to which the alternative recommendation and reasons for it fall within or outside planning policy;
  - (c) consider whether an adjournment is required to enable the member proposing the alternative recommendation to take advice from officers;and only then proceed to the vote.
- 7.8 Each member of the Committee may vote only once in favour of either the recommendation proposed by the Head of Planning and Regeneration Services or an alternative recommendation.

### **8. Public Speaking at Planning Committee**

- 8.1 The Council has decided to introduce a public speaking scheme to allow members of the public and other parties to give their views in person about an application for planning permission which affects them when it is being considered by the Planning Committee.
- 8.2 The four classes of speaker who may exercise the opportunity to speak publically at Planning Committee are:
  - a. objector (or agent/ spokesperson on behalf of objectors);
  - b. applicant, or their agent (or supporter);
  - c. Parish Council representative (if applicable);
  - d. Ward Councillor
- 8.3 Any interested party wishing to address the Planning Committee must give notice to the Committee Services Team of his or her intention to do so by 12:00 noon on the day of the Planning Committee meeting.
- 8.4 A total of three minutes shall be allocated to the applicant and/or his/her agent (or to a member of the public) who wish speak in favour of a planning application; if more than one person wishes to speak the time will be allocated in accordance with the Council's Guidance for Public Speaking at Planning Committee.
- 8.5 A total of three minutes shall be allocated to members of the public who wish to speak against a planning application; if more than one person wishes to speak the time will be allocated in accordance with the Council's Guidance for Public Speaking at Planning Committee.
- 8.6 A total of three minutes public speaking time shall be allocated to the representative of the local Parish Council; if more than one Parish Council representative wishes to speak the time will be divided equally between them. The time limits for public speaking may be extended at the discretion of the Chairman but only in exceptional circumstances.
- 8.7 A total of three minutes shall be allocated to Ward Councillors who wish to speak in relation to a planning application in their ward; if more than one Ward Councillor wishes to speak the time will be divided equally between them. In the event that a Ward Councillor is unable for any reason to exercise their Ward Councillor speaking rights they may nominate a substitute member to represent the views of the ward residents.
- 8.8 Guidance for public participation at Planning Committee is published from time to time by the Council. The Chairman of the Planning Committee will retain the discretion to decide at the meeting in which order the public speakers will address the Committee.

- 8.9 The Chairman shall invite the representative of Head of Planning and Regeneration at the conclusion of public speaking on planning applications to correct any factual inaccuracies.
- 8.10 Where a planning application is fully considered at Planning Committee and public speaking rights are exercised, in the event that Members decide to defer application there will be no further public speaking rights. This rule will apply to all classes of public speaker listed at paragraph 8.2. above.

### **9 Members of the Planning Committee with Disclosable Pecuniary Interests (DPI) or other disclosable interests and Public Speaking**

Any Member who considers they have a DPI or other disclosable interest in any planning matter, whether or not as a Planning Committee Member, should seek advice from the Monitoring Officer, deputy Monitoring Officer or a member of the Democratic Services Team at an early stage.

**BROMSGROVE DISTRICT COUNCIL  
FINANCIAL REGULATIONS  
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## **1. INTRODUCTION**

- 1.1 Bromsgrove District Council’s Executive Cabinet is responsible for regulating and controlling the Council’s finances and ensuring that sound financial management policies are in place and are adhered to. Part of this process is the establishment and maintenance of financial regulations which set out the Council’s financial responsibilities, policies and procedures.
- 1.2 Financial regulations are subject to annual review. This edition of the regulations will apply from August 2006 and supersedes all previous editions.
- 1.3 Where values appear in these regulations, they are the same as the thresholds in the Council’s Contract Procedure Rules:
  - (i) Value A - up to £14,999;
  - (ii) Value B - over £15,000-£29,999;
  - (iii) Value C - £30,000- £75,000; and
  - (iv) Value D - £75,001 to £144,371.
- 1.4 Additionally, a benchmark value for write offs has been established:
  - (i) < £1,000 – Head of Financial Services;
  - (ii) £1,000 - £2,500 – Head of Financial Services & Portfolio holder; and
  - (iii) > £2,500 – Executive Cabinet.
- 1.5 Financial regulations apply to every member and officer of the Council and anyone acting on its behalf. As a modern Council, Bromsgrove encourages innovation, providing this is within the framework laid down by these regulations, and the necessary risk assessment and approval safeguards are in place.
- 1.6 The Executive Cabinet and the Senior Management Team should maintain a written record of occasions where decisions have been taken under delegated powers, in accordance with the Scheme of Delegations.
- 1.7 All members and officers 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

these resources is legal, properly authorised, provides value for money and achieves best value.

- 1.8 The Senior Management Team is responsible for ensuring that all staff are aware of the content of these financial regulations and other internal regulatory documents and that they are complied with.
- 1.9 The Council's statutory finance officer ("S151 Officer") is the Corporate Director (Resources) who works closely with the Head of Paid Service (Chief Executive). To avoid repetition in this document, references to the Corporate Director (Resources) may also be taken to read "Corporate Director (Resources) in conjunction with the Chief Executive Officer" as appropriate.

## **2. FINANCIAL MANAGEMENT**

- 2.1 Financial Management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.
- 2.2 The full Council is responsible for approving the policy framework and budget within which the Executive Cabinet operates.
- 2.3 The Executive Cabinet is responsible for proposing the policy framework and budget to the full Council, and for discharging executive functions in accordance with the policy framework and budget. Executive Cabinet decisions can be delegated to a committee, a portfolio holder, an officer, or any combination thereof.
- 2.4 The Corporate Director (Resources) will for the purposes of Section 151 of the Local Government Act 1972 be the statutory responsible officer for the proper administration of the Council's financial affairs. Other statutory duties arise from the Local Government Finance Act 1988, the Local Government and Housing Act 1989 and the Accounts and Audit Regulations 2003.
- 2.5 The Corporate Director (Resources) will be the responsible officer for making reports under Section 114 of the Local Government Finance Act 1988, the text of which is reproduced in Appendix 1. This relates to any unlawful expenditure, unlawful action resulting in a loss, or unlawful entry in the Council's Accounts.
- 2.6 Devolved financial management arrangements exist within the Council, however it remains essential for the Corporate Director (Resources) to retain a corporate overview, especially when matters of major financial impact are being considered. In this context it will be the responsibility of the appropriate Service Business Manager to ensure that the Head of Financial Services (together with other necessary consultees) is consulted at an early stage to ensure that financial implications are fully contained in reports to any Executive Cabinet, committee or full Council meeting.
- 2.7 The Corporate Director (Resources) will be responsible for advising on the financial, organisational and accounting procedures throughout the Council. Service Business Managers will consult with the Corporate Director (Resources) before introducing any accounts, documents or procedures relating to payment of employees, cash, the keeping of stores, the collection of income or any other accounting matters. Policies on the retention and destruction of financial records will be approved by the Corporate Director (Resources).

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- 2.8 Service Business Managers will comply with the requirements of the Corporate Director (Resources) to ensure that as far as possible arrangements are made to separate internal financial checks and different officers carry out the following functions:
- (i) provide information regarding sums due to or from the Council and calculate, check, record and examine these; and
  - (ii) in the case of payments, certify documents for payment.
- 2.9 Service Business Managers will submit to the Corporate Director (Resources) as required all information which the latter considers necessary for costing and accounting purposes and will afford to the Corporate Director (Resources) access to all accounts, records and documents. The Head of Financial Services will be responsible for supplying financial information to Service Business Managers in an agreed form and frequency.
- 2.10 The Corporate Director (Resources) will submit the statutory Statement of Accounts of the Council to the Executive Cabinet for adoption by the Council as soon as possible after the end of the financial year and to comply with any statutory requirements.
- 2.11 In the context of performance management, all staff will ensure that best value is pursued in the delivery of all services and shall continuously seek improvement in the quality, efficiency and effectiveness of services.

## **3. FINANCIAL PLANNING AND RISK ASSESSMENT**

- 3.1 The Council will establish a strategic policy framework to incorporate the main issues facing the Council and to match policies with resources. In terms of financial planning, this will involve consideration of the Council's priorities and promises, and commitments and forecasts for three years, including the annual capital and revenue budget. The annual budget may then be seen as the first year of a rolling three year programme.
- 3.2 An essential part of the planning process is the continuous operation of systems for identifying and evaluating all significant strategic and operational risks facing the Council. This must include a risk assessment of the Council's priorities and promises, budget plans, programme options and service plans involving the proactive participation of the Executive Cabinet, Service Business Managers, Middle Managers and all officers associated with the planning and delivery of services. The Corporate Director (Resources) will obtain Executive Cabinet approval of the corporate risk management strategy and will promote and coordinate risk management activity throughout the Council.
- 3.3 The Senior Management Team will submit to the Executive Cabinet annual proposals for schemes for capital and revenue developments, including an indication of the priority of the schemes. All proposals will be submitted in accordance with the Project Management Framework protocol.
- 3.4 Capital and revenue budgets will be considered jointly so that the future impact of current proposals can be assessed, including the extent to which current capital expenditure commits or frees future resources.
- 3.5 The proposals will distinguish between already approved policies and those where expenditure is foreseen but not yet approved.
- 3.6 The Corporate Director (Resources) will report to the Executive Cabinet details of the level of resources required to service these proposals, in the context of the overall financial strategy of the Council, and the accomplishment of strategic objectives.
- 3.7 The Executive Cabinet will consider the provisional programme and make a general determination of amendments to be made following detailed consideration of the estimates.

## **4. THE BUDGETARY SYSTEM**

### **4.1 General**

4.1.1 The Head of Financial Services will be responsible for establishing, in consultation with Service Managers, a timetable for the preparation of each year's estimates. This timetable will be agreed by the Executive Cabinet in September of each year and will be constructed to ensure that the Council will meet its statutory obligations in respect of setting its local levies. This will allow the Council to meet annually to consider its annual estimates and determine the level of its local tax.

4.1.2 The Head of Financial Services will determine, with consideration of internal and external reporting requirements, the form in which the revenue and capital estimates will be prepared.

### **4.2 Preparation of Revenue Budgets**

#### **4.2.1 Revenue Expenditure**

4.2.1.1 Revenue budgets must be prepared within the resource allocation limits prescribed by the Council.

4.2.1.2 Budgets must be prepared in conformity with all instructions on budgeting issued by the Head of Financial Services. It is the responsibility of the Head of Service to ensure that detailed budget preparation takes place, that the amounts included are realistic, and that there has been correct application of budget conventions and procedures.

4.2.1.3 The Head of Financial Services will at all times monitor the preparation of the revenue and capital estimates and will collate the resultant budgets for submission to and consideration by the Executive Cabinet.

4.2.1.4 In addition, the Head of Financial Services will submit a statement of the requirements of the precepting authorities and a recommended level of Local Council Tax for the year.

4.2.1.5 The Executive Cabinet will submit its recommended budget proposals to the Council according to the annually agreed timetable as approved by Executive Cabinet and to comply with any statutory requirements.

#### **4.2.2 Capital Expenditure**

- 4.2.2.1 All capital estimates shall be prepared by Chief Officers and Heads of Service in a form laid down by the Head of Financial Services. Individual schemes shall be required to have a business case identifying the business benefits and full financial consequences of the scheme. Such business cases shall be subject to the approval of Cabinet and the Council before inclusion in the Capital programme and before any related expenditure shall be incurred. The content of the capital programme will be recommended to the Council by the Cabinet.
- 4.2.2.2 Variations to the capital programme shall take place in accordance with procedures laid down by the Cabinet, in so far as they are within the powers delegated to Cabinet, and otherwise in accordance with procedures laid down by Council or with the approval of Council.
- 4.2.2.3 For any capital scheme a report shall be made to the Cabinet setting out specific capital scheme proposals and shall give for each scheme (in accordance with the project management methodology):
- (i) why the scheme is required;
  - (ii) the estimated capital cost(s);
  - (iii) the estimated revenue cost(s);
  - (iv) exploration of alternative options;
  - (v) how the project contributes to the Council's objectives / priorities; and
  - (vi) no detailed design work shall be undertaken prior to the report being approved.
- 4.2.2.4 Design work shall not take place on schemes which are not included within the approved capital programme unless written approval has been obtained from the Chief Executive and the Head of Financial Services. Expenditure shall not be incurred on feasibility studies for any other schemes in excess of amounts to be prescribed from time to time by the Head of Financial Services.
- 4.2.2.5 The acceptance of tenders shall take place in accordance with the Contract Procedure Rules. Once tenders have been accepted, these will become the figure to be included in the capital programme, replacing any previous estimate.
- 4.2.2.6 The financing of the capital programme, whether by borrowing, leasing or other arrangements, shall be determined by the Head of Financial Services in consultation with the Portfolio Holder for Financial Services.

### **4.3 Authority to incur expenditure**

- 4.3.1 For revenue budgets, provided that Contract Procedure Rules have been complied with and subject to any specific exclusion, the inclusion of any item in the approved revenue budget and set out in detail in the budget book (other than a contingency provision which will be controlled by the Corporate Director (Resources) will constitute authority to incur expenditure. This must be in line with the budget headings (a combination of both subjective and service) as set out in the budget book.
- 4.3.2 For capital budgets, authority to incur expenditure will follow various stages, from initial feasibility through to project implementation, which will ensure that all projects are considered in detail, including both capital and revenue implications. Funding for each

stage will be specifically agreed by the Executive Cabinet/Council in accordance with agreed procedures and only when the Council through its budget approval process agrees the allocation of funds will the project be included in the current funded capital programme.

4.3.3 Providing Standing Orders, Contract Procedure Rules, Financial Regulations and any Council Instructions for the time being in force have been complied with, inclusion of any items in the approved funded capital expenditure programme shall be deemed to imply:

- (i) sanction for the Service Manager concerned to spend the capital sums provided for projects included in the programme for the current financial year; and
- (ii) authority for the Service Manager concerned:
  - (a) to take steps to enable land required for the purpose of the programme to be acquired in due time, subject to the Council having approved the financing of the capital programme.
  - (b) to proceed with the preparation of plans and other preparatory work, the acceptance of tenders and the pre-ordering of materials or equipment for which there is a long delivery period in connection with schemes, initial expenditure on which is included in the following financial year(s).

4.3.4 Where it appears that any capital project will not be completed within the financial year for which approval has been granted, approval of Full Council must be sought for the carrying-forward of the budget into the next financial year. This requirement does not apply where the planned timescale of the capital project has from the outset encompassed more than one financial year.

4.3.5 Where it appears that any capital project estimate will be exceeded, it shall be the duty of the Service Manager concerned, after joint consultation with the Corporate Director (Resources) and the Head of Financial Services, to inform the Executive Cabinet at the earliest opportunity.

4.3.6 Any proposal involving the adoption of a new policy or the variation or extension of existing policy which may or does affect the Council's finances will be submitted initially to the Executive Cabinet for consideration and subsequent approval by full Council. The proposal will include a comprehensive report justifying the project, outline any revenue and capital implications and include the comments of the Corporate Director (Resources). The proposal will take into consideration any provisions for virement in accordance with paragraph 4.5.

4.3.7 Expenditure considered essential to meet the sudden needs of an emergency or disaster (referable to section 138 of the Local Government Act 1972) may be incurred on the joint approval of the Chief Executive Officer and Corporate Director (Resources) in consultation with the appropriate Executive Cabinet member(s). It will be reported to the next meeting of the Executive Cabinet.

## **4.4 Budgetary control**

4.4.1 Allocated budgets will be cash limited, with budgetary monitoring undertaken by each Portfolio holder under the overall guidance of the Executive Cabinet, such responsibility



being devolved on a day to day basis to nominated budget holders for their own areas of activity. Service Managers will be responsible for controlling and achieving income and expenditure within their area, and will take any permitted action necessary to avoid exceeding their budget allocation, alerting the Corporate Director (Resources) and Head of Financial Services to any problems.

- 4.4.2 The Head of Financial Services, in conjunction with nominated budget holders and will ensure as far as practicable that systems are available which will provide such financial information as is required to enable budget holders to satisfactorily monitor budgets. Budget holders will receive monthly statements of expenditure and income showing budget v actual to ensure those with budgetary responsibility are aware of the financial position of their service. Variations to be discussed with nominated accountants and action plans to be in place to manage budgets effectively.
- 4.4.3 The Head of Financial Services will ensure that the appropriate Executive Cabinet member(s) Portfolio holders are provided with budgetary control information relevant to their sphere of responsibility, on a monthly basis and in accordance with agreed policy. Any significant variations should be discussed by the portfolio holder with Heads of Service and budget holders.
- 4.4.4 The Head of Financial Services will report budgetary performance to Performance Management Board on a quarterly basis.

## **4.5 Virement**

- 4.5.1 The virement rules below cover the transfer of resources between approved budget heading (both subjective and Service area) within the approved budget. Virements do not create additional overall budget liability. Heads of Service are expected to exercise their discretion in managing their budgets responsibly and prudently. Virements will be consistent with the aims, objectives and priorities of the Council and with any changes in policy.
- 4.5.2 Virement will be restricted to extensions of existing policies/ schemes and will not be used for new policies/schemes not previously considered by the Council. Overspend on a particular budget head may be met by virement of budgetary provision from an underspent budget head, subject to the following paragraphs in this section, thereby avoiding the need for supplementary budget approval.
- 4.5.3 Virements between revenue and capital budgets are not permitted.
- 4.5.4 Virements between revenue income and revenue expenditure will not be permitted.
- 4.5.4 Virement amounts up to £5,000 between budget headings as set out in the Council's Budget Book may be carried out by the appropriate Service Manager(s) in consultation with his/her Head(s) of Service and notified to the Head of Financial Services.
- 4.5.5 Virements between £5,001 and £15,000 between budget heading in the Council budget book may be carried out by the Head(s) of Service in consultation with the Head of Financial Services.
- 4.5.6 Virements between £15,001 and £100,000 will be subject to prior approval by the Executive Cabinet.

- 4.5.7 Virements over £100,001 will be subject to prior approval of full Council.
- 4.5.8 There will be no virement into or out of salary costs budgets without the approval of the Executive Cabinet.
- 4.5.9 Virements required due to exercising financial administration of the budgets e.g. setting up of new cost centres to enable more efficient budget monitoring may be carried out by the Head of Financial Service in consultation with or at the request of Heads of Service providing that the original purpose of the budget is remains unchanged and there is no transfer between budget headings.
- 4.5.10 Any exceptions to the above rules must be approved by the Executive Cabinet.

## **4.6 Supplementary estimates**

- 4.6.1 Any proposal to vary annual estimates by incurring expenditure not provided for in the original estimates and which cannot be met by virement in accordance with Financial Regulation 4.5, will be referred in writing by the appropriate Service Manager to the Head of Financial Services prior to its inclusion in any report to be considered by the Executive Cabinet. Such a proposal will be indicated on the meeting agenda.
- 4.6.2 The Executive Cabinet may approve a request for a supplementary estimate, and request approval of Full Council for use of the Council's general or earmarked balances.
- 4.6.3 All supplementary estimates granted constitute approval to incur expenditure.
- 4.6.4 Any proposed changes to the budgets resulting from new external funding must be discussed and agreed in advance of spending with the Head of Financial Services.

## **4.7 Treatment of year-end balances**

- 4.7.1 Executive Cabinet may approve the carry forward of underspends carried forward for one off items of required funding. These decisions will be taken in the context of the Council's overall net expenditure outturn position, the existing policies and priorities of the Council and Medium Term Financial Plan.

## **5. ORDERS FOR WORK, GOODS AND SERVICES**

### **5.1 General**

- 5.1.1 Orders will only be for Council related work, goods and services and will be placed in accordance with applicable Contract Procedure Rules covering estimates, quotations and tenders.
- 5.1.2 The Senior Management Team will ensure that ordering officers have due regard to the Council's Procurement Strategy, the need to obtain best value (both in regard to current Council functions and also when considering procurement options for future service delivery), and any current requirements to obtain goods/services by electronic means.

5.1.3 Every officer and member of the Council has a responsibility to declare any links or personal interests they may have with suppliers or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with appropriate codes of conduct.

5.1.4 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of council contracts.

## **5.2 Compliance with Environmental and other Policies**

5.2.1 All orders placed will take account of the Council's sustainability policies and commitments. These seek to minimise the environmental impact of goods and services. Where appropriate suppliers will be asked to highlight any environmentally significant features of their goods and services such as life expectancy, energy efficiency, source of timber, recyclability.

5.2.2 All orders placed will take into account other Council policies where applicable, for example Equality and Diversity.

## **5.3 Format of orders**

5.3.1 All written orders for goods and services will be issued on printed and consecutively numbered official order forms, the design of which will be subject to the approval of the Head of Financial Services. An official order form should be completed for all purchases and raised at the time of the order.

5.3.2 Orders and copy orders will be completed in sufficient detail to identify accurately the materials, work or service required and will specify where applicable the quotation, contract or other agreement, the price agreed and the approved budget expenditure code against which costs will be charged.

5.3.3 Budget expenditure codes will only be entered by the nominated budget holder, or by an officer with the budget holder's written authority.

5.3.4 Split ordering to avoid having to obtain quotations or tenders is forbidden.

## **5.4 Certification of orders**

5.4.1 Orders will be signed by the appropriate Service Business Manager, nominated budget holder or other authorised senior officer. The Accountancy Section will receive and retain an up to date list of specimen authorised signatures and will be immediately notified of any changes.

5.4.2 Ordering officers will obtain the countersignature of their line manager before committing any expenditure in which they may have an interest, for example attendance on a training course, booking of accommodation.

## **5.5 Retention of orders**

5.5.1 A copy of the signed official order along with any applicable documentation to justify the purchase will be retained by the appropriate budget holder for two years, plus the current year.

5.5.2 All copies of any spoilt orders will be retained and marked as “cancelled”.

## **5.6 Corporate purchasing**

5.6.1 Each order will conform with the directions of the Corporate Director (Resources) with regard to the use of any corporate purchasing arrangements and the standardisation of goods and materials. Corporate purchasing arrangements may be desirable for IT equipment, mobile phones and office furniture, etc. Contract Procedure Rules must be followed for all corporate purchases.

## **5.7 Security of orders**

5.7.1 It will be the responsibility of Service Business Managers to ensure that blank official orders are ordered in accordance with approved procedures and securely held in a locked stationery store. Inclusive official order numbers in pads of 50 will be recorded in a register and maintained by the Central Administration Section.

5.7.2 Order pads will only be issued to nominated budget holders who will confirm receipt by signing in the register maintained for the purpose.

5.7.3 The budget holder will be responsible for the safe custody and authorised use of all blank official orders once signed for.

## **5.8 Verbal orders**

5.8.1 In cases where goods, materials, works or services are required urgently and where delay would cause either loss to the Council or endanger public health or safety, then the order may be placed verbally by an authorised officer. All such orders must be confirmed with a written order clearly marked “confirmation” and in accordance with the budgetary control provisions outlined in 5.3.

## **6. PAYMENT OF ACCOUNTS**

### **6.1 Method**

6.1.1 Apart from petty cash or other payments from advance accounts, the method of payment will be by cheque, BACS or other instrument drawn on the Council's account.

### **6.2 Responsible officer**

6.2.1 All payments made on behalf of the Council, with the exception of petty cash payments or other payments from advance accounts, will be made by the Head of Financial Services.

6.2.2 The Head of Financial Services will be entitled to rely on (but may challenge) the certification of authorised officers and will be empowered to pay all accounts so certified. Authorised officers should ensure that where appropriate, adequate supporting documentation is retained with the order/invoice in order to provide a satisfactory audit trail to justify the reason for the payment.

### **6.3 Certification for payment**

- 6.3.1 In this section, references to signing, certifying and authorising relate to both manual and secure electronic means via the Agresso Financial Management System . All accounts for payment will be signed by the appropriate Service Manager, nominated budget holder or other authorised senior officer. Service Managers will ensure that as far as possible a separation of duties exists between the ordering of goods and certification of invoices and that if possible the certification of invoices is carried out by a more senior officer. Each officer certifying an invoice for payment will only certify expenditure against budget heads for which he is responsible, or for which he has delegated authority. The Accountancy Section will be notified of all officers so authorised, will receive and retain a list of specimen signatures and will be notified immediately of any changes.
- 6.3.2 All invoices received at any office of the Council must be forwarded immediately to the Accountancy Section for registration on the Agresso Financial Management system. Similarly all credit notes must be immediately forwarded to the Accountancy section and not retained within Service areas.
- 6.3.3 Payments will only be made on proper tax invoices (when applicable) which display the word "invoice" and the VAT registration number. Any payments made on proforma invoices must be followed up by the issue of a proper tax invoice.
- 6.3.3 In certifying a payment certifying officers will satisfy themselves that:
- (i) the works, goods or services to which the account relates have been carried out, received, examined and approved, are fit for the purpose and where appropriate comply with predetermined standards;
  - (ii) the relevant Standing Orders have been complied with;
  - (iii) the relevant expenditure has been properly ordered, authorised or incurred, is properly chargeable to the correct expenditure code and is within the relevant estimate provision;
  - (iv) the invoices correspond to delivery notes/goods received notes where appropriate, are arithmetically correct and discounts, allowances, credits and tax are correct;
  - (v) an appropriate entry is made on the hard copy order to prevent possible future duplicate payments;
  - (vi) the account has not previously been passed for payment; and
  - (vii) appropriate entries have been made in inventories and stores records.
- 6.3.5 Payments will only be processed if there are original handwritten initials and signatures in the authorisation boxes (i.e. photocopied signatures are not acceptable).
- 6.3.6 Any copy of an invoice produced prior to payment, for example a file copy, will be scored through and marked to clearly identify it as a copy.
- 6.3.7 To comply with VAT requirements, where it is necessary to amend an invoice, it must either be returned to the supplier, or a credit note/supplementary invoice should be

requested prior to payment being made. The use of correcting fluid etc to amend invoices is forbidden.

## **6.4 Urgent processing**

6.4.1 Certified invoices due for payment but which require payment in advance of normal processing may in exceptional circumstances be processed through the urgent payment system with the approval of the Head of Financial Services.

## **7. TRAVELLING, SUBSISTENCE AND FLEXIBLE WORKING HOURS**

### **7.1 Approved forms**

7.1.1 All claims for travelling and subsistence payments and adjustments to the staff flexible working hours scheme will be made only on forms approved by the Head of Human Resources and Organisational Development.

### **7.2 Certification**

7.2.1 All travelling and subsistence claims and flexible working hours adjustment sheets will be signed by the appropriate Service Business Manager or other senior officer authorised to do so. The Accountancy Section and Payroll will be notified of all officers so authorised, will receive and retain a list of specimen signatures, and will be notified immediately of any changes.

7.2.2 Certifying officers will normally be the claimant's line manager who will ensure to the best of their knowledge that:

- (i) travelling and subsistence claims relate to journeys made and expenses properly and reasonably incurred whilst carrying out official duties, in accordance with current Personnel policy and procedural guidance; and
- (ii) flexible working credits/debits are accurately recorded on Wintime or local procedures, in accordance with current Council policy.

### **7.3 Payment of Travelling and Subsistence Claims**

7.3.1 Certified claims will be forwarded to the Payroll Section within five working days following the end of the month to which the claim relates for payment through the salaries and wages system.

7.3.2 Payments to Members will be made by the Payroll Section upon receipt of the prescribed form duly completed and submitted within five working days following the end of the month to which the claim relates.

## **8. ADVANCE ACCOUNTS**

### **8.1 Provision**

8.1.1 The Head of Financial Services will provide advance accounts for appropriate officers of the Council. Advance accounts will be used for the purpose of providing petty cash for incidental purchases. Such accounts will be maintained using the imprest system.

8.1.2 Petty cash floats/imprests will only be raised following the approval of the Accountancy Section who record and reconcile all accounts held. Officers will obtain a holding account code for each imprest/float from the Accountancy Section.

### **8.2 Operation**

8.2.1 Individual payments from advance accounts will be limited to 20% of the value of the account or £50 whichever is the lesser. All payments will have the prior agreement of the account holder and will be supported by a receipted voucher (VAT receipt where appropriate), certified in accordance with Regulation 6.3.

8.2.2 No advances will be used by account holders other than for official purposes.

8.2.3 Staff will be required to ensure any imprests are regularly reimbursed.

### **8.3 Security**

8.3.1 An officer to whom an advance is made will:

- (i) be personally responsible for ensuring the proper use of and safe custody of the money advanced;
- (ii) be able to justify to the satisfaction of the Head of Financial Services the continuing need for an advance account and the level of imprest amount held;
- (iii) be liable to produce upon demand to the Head of Financial Services authorised representative cash or vouchers to the total of the advance together with a certificate of the state of the imprest account; and
- (iii) on leaving the employment of the Council, be liable to account to the Head of Financial Services for the amount advanced.

8.3.2 The Head of Financial Services will:

- (i) maintain a record of advances made; and
- (ii) examine the vouchers and receipts retained by officers in substantiation of payments and reimburse as often as may be necessary the amounts expended.

## **8.4 Annual statement of value**

8.4.1 An annual statement of value of each imprest will be certified by the appropriate Service Manager or their authorised representative and submitted to the Head of Financial Services.

## **9. SALARIES AND WAGES**

### **9.1 Responsible officer**

9.1.1 The Head of Financial Services will make arrangements to pay all salaries, wages and allowances properly payable by the Council to its employees and Members.

9.1.2 In accordance with agreed procedures, each Service Manager will notify the Head of HR and OD immediately in writing of all matters affecting the payment of salaries, wages and emoluments, and in particular:

- (i) appointments, resignations, dismissals, suspensions, secondments, retirements and redundancies;
- (ii) absences from duty for sickness or other reason apart from approved leave;
- (iv) changes in remuneration other than normal increments and pay awards; and
- (v) any information necessary to maintain records of service for superannuation, income tax, national insurance and the like.

9.1.3 Each Service Manager will forward a clearance certificate to the Payroll Section within 2 working days of receiving formal notice that an employee's employment will be terminating, to ensure any debts incurred by the employee have been repaid e.g. car loan/lease car, post entry training expenses, leave taken over entitlement etc.

### **9.2 New appointments**

9.2.1 Appointments of all employees will be made in accordance with the prevailing policies, regulations, and protocols of the Council and the approved establishment, grades and rates of pay, and within any statutory requirements.

9.2.2 Where temporary staff are engaged on a self employed basis, prior advice will be sought from the Head of Human Resources & Organisational Development and Head of Legal and Democratic Services as appropriate, in order to protect the Council from any employment liabilities (for example tax, national insurance) which may arise.

### **9.3 Approved forms**



9.3.1 All timesheets, overtime approvals and other pay documents will be in a form as prescribed by the Head of Hr & OD.

## **9.4 Certification**

9.4.1 All timesheets, overtime approvals or other pay documents will be signed by a Service Manager or other senior officer authorised to do so. The Payroll and Accountancy Section will be notified of all authorised officers, will receive and retain a list of specimen signatures, and will be notified of any changes.

## **10. CONTRACTS FOR BUILDING, CONSTRUCTIONAL OR ENGINEERING WORK**

### **10.1 Compliance with Contract Procedure Rules**

10.1.1 All contracts relating to building, constructional or engineering work made by the Council or on its behalf will comply with the Council's Contract Procedure Rules.

### **10.2 Register**

10.2.1 Service Managers, in consultation with the Procurement Section, will maintain a register of all formal contracts relevant to their activities in a form specified by the Head of Financial Services, and will enter a record of payments to contractors and of all contract fees and related professional fees.

10.2.2 The Head of Financial Services will maintain a record of payments made to contractors and tax deducted, including copies of vouchers sent to the Inland Revenue regarding gross payments made to holders of CIS5 and CIS6 tax certificates.

### **10.3 Certification**

10.3.1 All contract payments will only be made if a valid contract exists, and only on a certificate issued and signed by the appropriate Service Manager or other senior officer authorised to do so. The Accountancy Section will be notified of all authorised officers, will receive and retain a list of specimen signatures and will be notified immediately of any changes.

10.3.2 Where payment is to the holder of a CIS4 registration card, payment will only be made if the card is valid. Tax will be deducted in accordance with legal requirements.

### **10.4 Variations**

10.4.1 Contract variations will be authorised in writing by the appropriate Service Manager or his authorised representative in charge of the contract. A note of the financial effects of any variation must be recorded with the contract documentation either before or immediately after the issuing of the instruction.

10.4.2 Variation orders issued verbally on site must be confirmed in writing within two working days, see 5.8.1 above.

## **10.5 Final certificates**

- 10.5.1 The final certificate of completion of any contract will not be issued until the appropriate Service Manager has completed a detailed statement of account and all relevant documents. The appropriate Service Manager will be responsible for ensuring the adequate checking of final accounts .
- 10.5.2 The Head of Financial Services will, to the extent considered necessary, examine contract final accounts and will be entitled to make all such enquiries and receive such information and explanations as required in order to be satisfied as to the accuracy of the accounts.

## **10.6 Reporting of excess costs**

- 10.6.1 If during the course of any contract there are indications that costs are likely to exceed the approved contract sum, the Head of Financial Services and Corporate Director (Resources) will be informed immediately and a report containing an explanation will be submitted to the next Executive Cabinet.
- 10.6.2 All cases where final costs have exceeded the approved contract sum will be reported to the Executive Cabinet following agreement of the final account.

## **11. Procurement of Consultancy Services**

### **11.1. Introduction**

- 11.2 The purpose of these guidelines is to set out the procedures to be followed within the Council for procuring consultancy services.

### **11.2 Definition of Consultants**

- 11.2.1 In these guidelines "consultancy services" means any professional service provided by any person or organisation to the Council including but not limited to;

11.2.2 Legal services

11.2.3 Accountancy and Financial Services

11.2.4 Technical Consultancy Services

11.2.5 IT Consultancy Services

### **11.3. Contract Procedure Rules**

- 11.3.1 Under the Contract Procedure Rules, a Head of Services is authorised to accept the lowest tender for the supply of services to the Council. Where a Head of Service wishes to accept a tender other than the lowest he/she shall first obtain the consent of the Corporate Director Resources and record the reasons for not accepting the lowest tender.

11.3.2 These guidelines take effect subject to the above provision in the Contract Procedure Rules and other guidance contained in the Council's Constitution.

11.3.4 In practice this means that before a consultant is engaged, the Head of Service must be satisfied that, inter alia, :

11.3.4.1 that budget provision is available for the costs of the consultant; and

11.3.4.2 where it is the intention to accept a tender other than the lowest, the Head of Service shall first obtain the consent of the Corporate Director Resources and record the reasons for not accepting the lowest tender.

## **11.4 Grounds for Engaging the Consultants**

11.4.1 Consultants may be engaged by the Council in any of the following circumstances:

11.4.1.1 Where there is a lack of in-house skills available (e.g. perhaps through a shortage of staff or where the Head of Service is satisfied that the necessary expertise does not exist in-house)

11.4.1.2 There is a short timescale required for the particular piece of work and existing staff would not be able to accommodate the workload required

11.4.1.3 The nature of the work/outcome sought requires an independent view; or

11.4.1.4 The consultant can do the specific work task to a higher quality standard and more economically than if undertaken in-house.

## **11.5. Competitive Procurement**

11.5.1 Whenever practicable a competitive process should be used in the procurement of consultancy services. This is set out in the Contract Procedure Rules. identify the procedures for procurement of services including conditions for any departure from the Contract Procedure Rules.

## **11.6. Alternative Procurement Procedures**

11.6.1 When it is not practicable for the use of a competitive procurement procedure and it is proposed to engage a consultant without a competitive process the following applies:

### **Contract Value less than £75,000**

11.6.1.1 Where the estimated value of the contract is less than £75,000 the written approval of the relevant Head of Services should be obtained to the appointment.

11.6.1.2 The written approval should record the reason why it was necessary to appoint a consultant without a competitive process, the reason for the selection of the consultant and the likely costs (whether a fixed fee, estimated fee or hourly rate).

## **Contract value between £75,000 and the Public Services Contract Regulations Threshold**

11.6.1.3 Where the likely value of the contract is £75,000 or more then in addition to the Head of Service's consent the consent of the Chief Executive and Head of Financial Services should be obtained.

11.6.1.4 A Pro forma Recording the Reasons for the Decision and allowing for authorised is attached at Annexe 1 to these Guidelines. Officers may wish to use this when this is intended to procure using this method.

## **11.7 Preparation of brief**

11.7.1 Whether it is intended to engage a consultant a brief should first be prepared in as much detail as is practicable at the time. The brief should clear the following:

11.7.1.1 Background to the project

11.7.1.2 Project aims and objectives together with clear specifications of the work to be done

11.7.1.3 Expected outcome or deliverables and quality of work required

11.7.1.4 The project timetable

11.7.1.5 the department's own contribution to the project

11.7.1.6 Day to day reporting requirements

11.7.1.7 Relevant source documents available for inspection

11.7.1.8 Requirements and timetable for submitting proposals by the Consultant

11.7.1.9 The named project manager and telephone number for enquiries

## **11.8 Variations**

11.8.1 During the course of consultancy arrangements they often arises a need to vary the brief of the consultant to respond to circumstances unforeseen.

11.8.2 A Variation or series of Variations up to a value of £10,000 may be authorised by the Head of Service.

11.8.3 A Variation which either on its own or when aggregated with previous variations exceed £10,000 requires the authorisation of the Head of Service together with the Chief Executive and Head of Financial Services.

## **11.9 EU Public Procurement Considerations**

11.9.1 Most consultancy services constitute a service for the purposes of the Public Services Contract Regulations 1993. Where ever the estimated value of the contract exceeds the threshold (which is currently £144,371) the regulations apply and the contract must be let in accordance with the public procurement rules. The Head of Financial Services will advise on the procedures to be followed and in cases of doubt will decide whether a contract falls within the public procurement rules.

## **11.10 Procurement of Legal Services**

11.10.1 All legal services (including instruction of Counsel) shall be procured on behalf of the Council by the Head of Legal and Democratic Service.

11.10.2 In view of the nature of the procedure for instructing Counsel it is not practicable for the procedures outlined at paragraphs 5 and 6 to be applied. Therefore instruction of Counsel shall be carried out in accordance with such additional procedures as may be advised by the Head of Legal and Democratic Services from time to time

## **Annex 1**

### **Pro Forma Approval Form**

#### ***Authorisation for the Appointment of Consultant***

Name of Consultant:

Reason to Use Consultant:

Reason for Choice of Consultant:

Costs of Consultant:

Requested by.....

Approved by .....

Head of Service

#### ***For Contracts with a Value in Excess of £75,000***

Approved by.....

Chief Executive.....

Head of Financial Services.....

## **12. INCOME**

### **12.1 Responsible officer**

12.1.1 The Head of Financial Services will be responsible for ensuring that prompt and proper arrangements exist for the collection, custody, control, disposal and accounting of all cash and remittances due to the Council.

12.1.2 Budget officers will notify the Head of Financial Services of all sums due to the Council in respect of payment for goods and services or other transactions involving the receipt of money in a manner as prescribed by the Head of Financial Services.

12.1.3 All sums due from sundry debtors will be raised promptly by Service Units via the debtors module of the Agresso System (or for revenues related debts via the Academy system). Responsibility for the prompt and thorough recovery of debts rests with the appropriate Debtors officer. Whenever appropriate, payment in advance should be obtained as this improves the Council's cashflow and also avoids the time and cost of administering debts.

### **12.2 Paying in**

12.2.1 All money received by an officer on behalf of the Council will be paid into one of the Council's Cash Offices without delay, or if instructed by the Head of Financial Services, direct to the Council's bank account.

12.2.2 No deduction will be made from sums due to the Council.

12.2.3 Officers paying into a bank account must enter a reference to the debt or the origin of the cash or cheque on the paying in slip.

12.2.4 Post-dated cheques will not be accepted by the Council .

### **12.3 Official receipts**

12.3.1 All official receipts, forms, tickets, vouchers and similar documents will be ordered, stored and issued in accordance with procedures approved by the Head of Financial Services

12.3.2 No receipt given by an officer for money received will be in a form other than an official receipt.

### **12.4 Cashing cheques**

12.4.1 No personal cheques will be cashed out of money held on behalf of the Council.

- 12.4.2 No third party cheques will be accepted by cashiers for the payment of any debt.
- 12.4.3 No Bromsgrove District Council cheques endorsed "Account Payee" will be accepted by cashiers in respect of any outstanding debt unless there are any extenuating circumstances which have been considered and approved by the Head of Financial Services.

## **12.5 Transfer of remittances**

- 12.5.1 Every transfer of money held on behalf of the Council from one member of staff to another will be evidenced by the signature of the receiving officer in a register or proforma maintained for this purpose.
- 12.5.2 Any blank cheques received and those which are not "Account Payee Only" will be crossed with an official stamp immediately on receipt as part of the post opening procedure.

## **12.6 Write offs**

- 12.6.1 It will be the responsibility of Service Managers to promptly notify the Head of Financial Services of the need to write off any debt, giving details of the steps taken to recover the debt and valid reasons for the write off. A "debt" may be classified as:

- (i) an individual amount for an individual debtor; or
- (ii) the cumulative amount of several related debts for an individual debtor, (for example all business rates arrears or all outstanding trade refuse payments).
- (iii) an amount "due to the Council arising through the provision of a service by the Council or by way of a sanction, Council tax or NNDR debts" or an amount held on the Agresso sundry debtors module or the Academy system

- 12.6.1 Authorisation to the write off of an individual debt is detailed in paragraph 1.4.
- 12.6.2 The write off of an individual debt greater than £2,500 will require the authorisation of the Executive Cabinet.
- 12.6.3 In all cases, due consideration will be given during the write off process to the ongoing provision of the service and any other Council services being provided to the debtor.

## **12.7 Money laundering**

- 12.7.1 For the purposes of the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003, the Head of Financial Services will be the Council's Money Laundering Reporting Officer (MLRO) who will receive disclosures of suspected money laundering offences. The Council's Deputy MLRO is the Audit Services Manager.
- 12.7.2 Any payments in excess of £2,500 must be recorded and the details sent to the MLRO weekly.

- 12.7.3 Cash receipts exceeding €15,000 (approx £10,000) for goods or property must be reported immediately to the MLRO who will inform HM Revenue and Customs.
- 12.7.4 All suspicious payments (whatever the value or form of payment – cash, cheque, card, transfer, etc) must be reported immediately to the MLRO.

## **13. BANKING AND CHEQUES**

### **13.1 Responsible officer**

- 13.1.1 The Head of Financial Services will operate bank accounts to carry out the Council's banking transactions at the bank nominated by the Council, and will be responsible for the authorised operation of all bank accounts, bank transfers and the issue of all cheques on behalf of the Council.
- 13.1.2 No account will be opened on behalf of or including the name of the Council except on the authority of a resolution by the Council. Accounts will only be opened when authorised by the personal signature of the Head of Financial Services or other authorised officer.

### **13.2 Order and custody of cheques**

- 13.2.1 Cheques will only be ordered on the authority of the Head of E Government & Customer Services, who will make proper arrangements for their safe custody.
- 13.2.2 Internal transfers of cheques will be recorded and a discharge of liability signature will be obtained.
- 13.2.3 Any necessary replacement cheques shall not be drawn until confirmation has been received in writing from the Council's bank that the original cheque has been "stopped".

### **13.3 Signatures**

- 13.3.1 All cheques drawn on the bank accounts of the Council will bear the Head of Financial Services signature. All facsimile signatures will be checked at the time of printing.
- 13.3.2 All cheques and BACS payments exceeding £10,000 will require a second signature. A list of authorised signatures is maintained by the Accountancy Section.

## **14. TREASURY MANAGEMENT**

### **14.1 Responsible officer**

- 14.1.1 All money in the hands of the Council will be under the control of the officer designated for the purposes of Section 151 of the Local Government Act 1972, the Corporate Director (Resources), who will take all executive decisions on borrowing, lending, repayment and financing in line with current Council policy.



## **14.2 Records**

- 14.2.1 The Head of Financial Services will be the Council's Registrar of bonds and mortgages and will maintain records of any borrowing and lending by the Council.

## **14.3 Best practice**

- 14.3.1 All borrowing, lending and financing will be in accordance with the CIPFA publication "Treasury Management in the Public Services" (2001).
- 14.3.2 Should the Head of Financial Services wish to depart in any material respect from the main principles of this publication, the reasons will be disclosed in a report by that officer to the Council

## **14.4 Policy, strategy and reporting**

- 14.4.1 A long-term treasury management policy statement will be adopted by the Council and thereafter its implementation and monitoring will be delegated to the Head of Financial Services.
- 14.4.2 At or before the start of the financial year the Head of Financial Services will report to the Executive Cabinet on the proposed treasury management strategy for the coming financial year.
- 14.4.3 The Head of Financial Services is responsible for ensuring that up to date treasury management practice statements are in place providing written guidance and instruction on routine operational activities.
- 14.4.4 The Head of Financial Services will report to the Executive Cabinet on the activities of the treasury management operation. This will include an annual report on treasury management for presentation by 30<sup>th</sup> September of the succeeding financial year.

## **15. INTERNAL AUDIT**

### **15.1 Responsible officer**

- 15.1.1 The statutory requirement for internal audit in local government is prescribed by the Accounts and Audit Regulations. The responsibility for maintaining an adequate and effective system of internal audit rests with the relevant body ie: the Council. This responsibility is formally delegated to the responsible officer appointed under Section 151 of the Local Government Act 1972. Accordingly, a system of continuous internal audit, under the control and direction of the Head of Financial Services will carry out an examination of the accounting, financial and other operations in so far as they have financial effects on the Council. Internal Audit effort will be co-ordinated with that of the Council's external auditors.

### **15.2 Internal Control**

- 15.2.1 Internal Auditors are responsible for reviewing and advising on the Council's internal control systems. These systems need to ensure compliance with all applicable statutes, regulations and best practice guidance. Internal controls should also ensure that the risks

facing the Council are minimised and that public funds are properly safeguarded and used economically, effectively and efficiently, in accordance with the statutory and other authorities that govern their use.

- 15.2.2 Service Managers are responsible for managing risks and maintaining sound arrangements for planning, appraising, authorising and controlling operations in order to secure continuous improvement, economy, effectiveness and efficiency, and to achieve financial performance targets.

## **15.3 Rights of access**

- 15.3.1 The Internal Auditors, as the authorised representative of the Head of Financial Services, will have authority:

- (i) to enter any land, building, vehicle or plant owned or used by the Council;
- (iv) to have access at all times to any record, document, contract or correspondence relating to the affairs of the Council, including those stored by mechanical, electric or electronic means;
- (iii) to possess or take copies of any record, document or correspondence;
- (vi) to require such explanations as are necessary from any Council officer concerning any matter under examination; and
- (vii) to require any employee of the Council to produce cash, stores or any other Council property under their control.

## **15.4 Standards**

- 15.4.1 The Internal Audit Section will comply with all legislative requirements and guidelines issued reflecting best audit practice. The results of Internal Audit work will be reported annually and at such other times as are necessary to the Executive Cabinet and Audit Board.

## **15.5 Fraud and irregularity**

- 15.5.1 The Audit Services Manager is responsible for maintaining and promoting the Council's Anti-fraud and Corruption Strategy.

- 15.5.2 Any officer who suspects that an irregularity is being or has been perpetrated concerning the Council's affairs shall immediately inform the necessary people, their Service Manager, Corporate Director, the Monitoring Officer, or the Head of Financial Services, who will investigate and report as necessary.

- 15.5.3 Any Member who suspects that an irregularity is being or has been perpetrated concerning the Council's affairs shall immediately inform the Chief Executive Officer, the Monitoring Officer and the Head of Financial Services, who will investigate and report as necessary.

- 15.5.4 Where criminal proceedings might be necessary the Chief Executive Officer in consultation with the Head of Financial Services and the Monitoring Officer will be responsible for deciding whether to refer a matter to the Police.

15.5.5 Any Member or officer who suspects that an irregularity concerning the Council's affairs is being or has been perpetrated by the Chief Executive Officer or the Head of Financial Services shall immediately inform the Monitoring Officer.

15.5.6 The Council has a whistleblowing policy (Confidential Reporting Code) which aims to:

- (i) provide confidential avenues for employees and others to raise concerns and receive feedback on any action taken;
- (ii) allow employees to take the matter further if they are dissatisfied with the Council's response; and
- (iii) reassure employees that they will be protected from reprisals or victimisation for whistleblowing in good faith.

## **16. INVENTORIES**

### **16.1 Responsible officer**

16.1.1 Service Managers will maintain an inventory of all significant items of plant, vehicles, machinery, equipment, tools, furniture and other movable property under their control.

### **16.2 Form and control**

16.2.1 Inventories will be in a form approved by the Head of Financial Services.

16.2.2 Service Managers will be responsible for ensuring that inventories are continuously updated, and that appropriate action is taken on the discovery of deficiencies and surpluses. Attractive and portable items such as computers and cameras should be marked with security markings as belonging to the Council.

### **16.3 Write offs**

16.3.1 Unserviceable inventory items of little value and items past their useful life will be written off under the written authority of a Service Manager.

16.3.2 Items that are to be written off, other than as a result of fair wear and tear, shall be done in accordance with guidance and limits stated in paragraph 1.4.

16.3.3 Disposal of written off inventory items will be the responsibility of Service Managers in consultation with the Head of Financial Services. This will be by competitive tender, public auction, or such other manner which is most beneficial to the Council.

### **16.4 Removal of property**

16.4.1 The Council's property will not be removed or used other than in accordance with the ordinary course of the Council's business except in cases where specific direction or approval has been issued by the appropriate Service Manager.

16.4.2 Loan items of clothing, equipment etc. will be signed for by the recipient and returned when leaving the Council's employment.

## **17.7 LAND HOLDINGS**

### **17.1 Responsible officer**

17.1.1 The Head of Legal and Democratic Services will maintain a terrier of all land and properties owned by the Council and will maintain an asset register of the Council's land and property holdings with a value in excess of £5,000 in accordance with current accounting requirements.

### **17.2 Coverage**

17.2.1 The land and property terrier will contain the following details:

- (i) purpose for which held;
- (ii) location;
- (iii) extent and plan reference;
- (iv) purchase details, including date of acquisition;
- (v) rents receivable/payable and rent review dates;
- (vi) reference to easements in deeds and
- (vii) other charges against the property such as repairing and insuring obligations.

### **17.3 Security**

17.3.1 The Head of Legal and Democratic Services will keep all title deeds securely and will record all deeds temporarily removed.

17.3.2 The Common Seal of the Council will be kept in a safe place in accordance with the relevant section of the Council's Constitution.

### **17.4 Acquisitions**

17.4.1 Any acquisition of land or property by the Council will comply with relevant legislation and current guidelines reflecting best practice.

- 17.4.2 The Head of Legal and Democratic Services and the Head of Financial Services in conjunction with the appropriate Portfolio holder will jointly exercise a delegation to deal with acquisitions under £10,000 and will advise the Local Ward Member before the decision is taken.
- 17.4.3 Routine acquisition of land or property above £10,000 will be authorised by a prior resolution of the Executive Cabinet.
- 17.4.4 For urgent acquisitions of £10,000 land or property, a meeting of the Executive Cabinet will be convened, and the advice of the Head of Financial Services will be sought before any decision is taken. The views of the local Ward Member will be sought.
- 17.4.5 The Head of Legal and Democratic Services will exercise a delegation up to £10,000 to deal with property management issues such as lease renewals and rent reviews. Property management issues and decisions above £10,000 will be taken in conjunction with the appropriate Portfolio Holder.

## **17.5 Disposals**

- 17.5.1 Disposals of Council land or property will comply with relevant legislation and current guidelines reflecting best practice. In particular the Local Government Act 1972 S123 requires that disposals will be for the best consideration that can reasonably be obtained. Detailed guidance is given in Professional Guidance Note No. 2 (Disposals of land interests by Local Authorities) issued by the Valuation Liaison Group.
- 17.5.2 The Corporate Director (Resources) and in conjunction with the appropriate Executive Cabinet member will jointly exercise a delegation to deal with disposals under £10,000.
- 17.5.3 Routine disposal of land of an anticipated market value in excess of £10,000 will require the prior approval of the Executive Cabinet, who will consider a report by the Head of Legal and Democratic Services which will include the financial, legal and other consequences of the proposed disposal. Before reporting to Cabinet the matter must be considered by the Capital Asset Management Group (or such other corporate body as may have responsibility for the Asset Management Plan) and must adhere to the principles enshrined within the prevailing Asset Management Plan.
- 17.5.3 Terms shall not be finalised without the benefit of a current valuation from a qualified valuer with appropriate expertise. This is particularly important where negotiations are conducted with a single purchaser.
- 17.5.4 Disposals above £30,000 will be subject to the invitation of competitive bids. The land/property will be advertised on a scale and in locations calculated to reach the relevant sectors of the property market. Where land is to be disposed of by:
- (i) auction - it should be subject to a reserve price not less than the valuer's current valuation; or
  - (ii) public tender or sealed offers - Contract Procedure Rules will be applied.
- 17.5.5 Where disposals are related to land where the proposed purchaser already has an existing interest, for example adjacent owner, lessor, tenant, sale by private treaty may be applicable and use may be made of estate agents appearing on an approved list.

17.5.6 Where an offer is accepted subject to contract and a higher offer is received before contracts are exchanged, the person who made the former offer shall be given the opportunity to increase it if it is proposed to accept the higher offer.

17.5.7 Negotiations with prospective purchasers should take place at the Council House or at the offices of the other party or their agents within normal office hours, with at least two officers present. Signed minutes shall be kept and points agreed confirmed promptly by exchange of correspondence. The progress of negotiations shall be regularly reported to the Head of Legal and Democratic Services and the Capital Asset Management Group.

17.5.8 In exceptional circumstances, if urgent disposal of £30,000 land or property is necessary, a meeting of the Executive Cabinet will be convened, and the advice of the Head of Financial Services will be sought before any decision is taken.

## **18. INSURANCE**

### **18.1 Responsible officer**

18.1.1 The Head of Financial Services will arrange all necessary insurances for the Council in accordance with agreed policy. A record of all properties and risks covered will be kept, and a review will take place at least annually to ensure that all the insurances remain adequate.

### **18.2 Claims**

18.2.1 The Head of Financial Services will be responsible for dealing with all claims against or on behalf of the Council.

18.2.2 The appropriate Service Manager will notify the Head of Legal and Democratic Services and the Head of Financial Services immediately in writing of any loss, liability of damage or any other event likely to lead to a claim, and will provide full supplementary information relating to the claim within 10 working days. Where necessary, the appropriate Corporate Director, having consulted with the Head of Legal and Democratic Services, will inform the Police.

### **18.3 Cover**

18.3.1 The appropriate Service Manager will immediately inform the Head of Financial Services in writing, of all new risks, properties or vehicles, and any material alterations to existing risks, properties or vehicles.

18.3.2 The appropriate Service Manager will consult the Head of Legal And Democratic Services in respect of the terms of any indemnity the Council is asked to give.

## **19. STOCKS AND STORES**

### **19.1 Responsible officer**

19.1.1 Service Managers will be responsible for the care and physical custody of the stocks and stores under their control, and for ensuring that such stocks and stores are not kept in excess of normal requirements.

### **19.2 Records**

19.2.1 Stocks and stores records will be kept in a form to be agreed by the Head of Financial Services.

### **19.3 Stocktaking**

19.3.1 Stocks and stores will be subject to periodic test checks by officers other than the storekeepers and all stocks and stores will be checked at least annually, to include a review of the level and condition of stock.

19.3.2 A certificate of value will be produced on the last day of each financial year and forwarded promptly to the Head of Financial Services within seven working days.

### **19.4 Write offs**

19.4.1 Surpluses or deficiencies will be reported to the Service Manager and appropriate accounting action taken, subject to the approvals detailed in paragraph 1.4.

### **19.5 Surplus stocks**

19.5.1 Service Managers will be responsible for the disposal of surplus stocks and stores subject to the agreement of the Head of Financial Services. This will be by competitive tender, public auction, or such other manner which is most beneficial to the Council. Any disposal of a single item of stock in excess of £2,500 will be reported to the Executive Cabinet.

## **20. SECURITY**

### **20.1 Responsible officer**

20.1.1 Service Managers will be responsible for the safe keeping and authorised use of all assets under their control.

### **20.2 Cash holding**

20.2.1 Maximum limits of cash holdings will be agreed with the Head of Financial Services and will not be exceeded without written permission.

### **20.3 Keys**

20.3.1 Keys held by Officers and nominated Members to the Council House property, including safes, cash boxes, strong rooms and computer terminals, security systems and any other secure item or area will be issued by the Head of Legal and Democratic Services to named individuals who will confirm receipt in a register and be responsible for their safe custody. The loss of any key will be reported to the Head of Legal and Democratic Services immediately.

20.3.2 The Head of Legal and Democratic Services will be responsible for ensuring that adequate security arrangements exist for keys to other Council owned property.

20.3.3 Service Managers will ensure that officers who leave the Council's employment or cease to be required to hold keys surrender their keys immediately.

20.3.4 Service Managers will retain master copies of all keys issued.

### **20.4 Identification cards**

20.4.1 The Head of Human Resources & Organisational Development will be responsible for issuing identification cards to all permanent Officers and Members.

20.4.2 Service Managers will be responsible for making arrangements for issuing identification cards to temporary staff, visitors, trade workers etc, and ensuring that all personnel return their identification cards when they leave the Council's employment.

20.4.3 All Officers and Members will wear their identification cards at all times when on official premises.



## **20.5 Information and Communications Technology**

20.5.1 The Head of E-Government & Customer Services will be responsible for the security of corporate data, and ensuring that adequate contingency arrangements exist which protect the Council's interests in the event of an ICT disaster.

## **20.6 Post opening**

20.6.1 The Head of Legal And Democratic Services will be responsible for ensuring that secure post opening procedures exist to prevent:

- (i) items of mail being lost or stolen; and
- (ii) fraudulent documents entering the system.

20.6.2 Procedures will be documented and will include:

- (i) post opening by a minimum of two staff;
- (ii) post receipt / despatch in a secure area;
- (iii) date stamping of post received; and
- (iv) effective and timely document image processing.

## **20.7 Breaches of security**

20.7.1 The appropriate Service Manager will immediately report breaches of security to their Corporate Director, who will consider the audit and insurance implications, take appropriate action and refer sufficiently serious cases to the Police.

## **21. MANAGEMENT OF INFORMATION**

### **21.1 Responsible officer**

21.1.1 All officers will be responsible for maintaining proper security and privacy of all information under their control including that held in computerised files. Proper consideration will be given at all times to the proper use of passwords to prevent unauthorised access to systems.

### **21.2 Data protection and Freedom of Information**

21.2.1 The Head of Legal and Democratic Services will be nominated as Data Protection Officer and will be responsible for ensuring that the Council acts in accordance with the provisions of the Data Protection and Freedom of Information legislation.

### **21.3 Retention of documents**

21.3.1 Service Managers will make arrangements for retaining official documents for the periods as listed at Appendix 2.

## **22. EXTERNAL ARRANGEMENTS**

### **22.1 Introduction**

22.1.1 Officers may represent the Council on partnerships and external bodies, in accordance with the scheme of delegation.

### **22.2 External Funding**

22.2.1 The Head of Financial Services is responsible for ensuring that all funding notified by external bodies is received used for the intended purpose and properly recorded in the Council's accounts.

### **22.3 Work for Third Parties**

22.3.1 The Executive Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies.

22.3.2 Service Managers will ensure that:

- (i) any risks are minimised and such work is intra vires;
- (ii) a register is maintained of all contracts entered into with third parties;
- (iii) appropriate insurance arrangements are made;
- (iv) the Council is not put at risk from any bad debts;
- (v) no contract is subsidised by the Council;
- (vi) wherever possible, payment is received in advance of the delivery of the service;
- (vii) the Service Unit has the appropriate expertise to undertake the contract;
- (viii) all contracts are properly documented; and
- (ix) appropriate information is provided to the Head of Financial Services for final accounts purposes.

## APPENDIX 1

### LOCAL GOVERNMENT FINANCE ACT 1988

#### Section 114 Functions of responsible officer as regards reports

- (1) On and after the commencement day the person having responsibility for the administration of the financial affairs of a relevant authority under section 151 of the 1972 Act, section 73 of the 1985 Act or section 112, shall have the duties mentioned in this section, without prejudice to any other functions; and in this section he is referred to as the chief finance officer of the authority.
- (2) The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the authority, a committee or officer of the authority, or a joint committee on which the authority is represented:
  - (a) has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful,
  - (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority, or
  - (c) is about to enter an item of account the entry of which is unlawful.
- (3) The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.
- (3a) It shall be the duty of the chief finance officer of a relevant authority, in preparing a report in pursuance of subsection (2) above, to consult so far as practicable:
  - (a) with the person who is for the time being designated as the head of the authority's paid service under section 4 of the Local Government and Housing Act 1989; and
  - (b) with the person who is for the time being responsible for performing the duties of the authority's monitoring officer under section 5 of that Act.
- (4) Where a chief finance officer of a relevant authority has made a report under this section he shall send a copy of it to:

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- (a) the person who at the time the report is made has the duty to audit the authority's accounts, and
  - (b) each person who at that time is a member of the authority.
- (5) Subject to subsection (6) below, the duties of a chief finance officer of a relevant authority under subsections (2) and (3) above shall be performed by him personally.
  
- (6) If the chief finance officer is unable to act owing to absence or illness his duties under subsections (2) and (3) above shall be performed -
  - (a) by such member of his staff as is a member of one or more of the bodies mentioned in section 113(3) above and is for the time being nominated by the chief finance officer for the purposes of his section; or
  - (b) if no member of his staff is a member of one or more bodies, by such member of his staff as is for the time being nominated by the chief finance officer for the purposes of this section.
- (7) A relevant authority shall provide its chief finance officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this section to be performed.
- (8) In this section:
  - (a) references to a joint committee are to a committee on which two or more relevant authorities are represented, and
  - (b) references to a committee (joint or otherwise) include references to a sub-committee.

N.B. For the purposes of Section 6 above, the Corporate Director (Resources) will be the nominated officer.

## APPENDIX 2

### Minimum period for retention of “financial” documents

Note: the following is based on the CIPFA Financial Information Service list which incorporates the results of a number of local agreements with HM Revenue and Customs.

Type of Document	Retention Period (Years)
<b>Accountancy/Financial</b>	
Budgetary monitoring reports	2 + current
Estimate working papers	2 + current
Financial ledgers (incl year end reports)	6
Grant claim records	6
Investment records	6 after maturity
Journals etc	6
Leasing records	2 + current
Statement of accounts	Retain indefinitely
VAT claims	6
VAT records	6
<b>Bank Related Records</b>	
Bank paying-in books/slips	6
Bank reconciliation papers	6
Bank statements	6
Cheque books and counterfoils	6
Cheque lists (creditors/payrolls)	2 + current
Cheques - cancelled	2 + current
Cheques – returned	2 + current
Loan records and correspondence	2 + current
<b>Contracts</b>	
Contract registers	Retain indefinitely
Final accounts:	
contracts executed under hand	6
contracts issued under seal	12
Successful tenders	6 after final payment
Unsuccessful tenders	Until final payment

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## Creditor Records

BACS records	6
Copy orders	6
Credit notes	6
Creditor invoices	6
Delivery notes	2 + current
Periodic payment records	6
Petty cash floats & imprest documentation	6

## Income Records

Cash receipting reconciliation records	6
Collection and deposit books	6
Correspondence (income)	6
Debtor records (non-current accounts)	6
Miscellaneous income receipts	6
Receipt books & record of books issued	6
Sales records	6

## Insurance Records

Insurance claims, correspondence	6
Insurance contracts – expired	Retain indefinitely
Insurance policy documentation	Retain indefinitely

## Miscellaneous Records

Capital works monitoring reports	2 + current
Car leasing and mileage records	6 from end of lease
Car loans	6
Community Charge records (non-current)	6
Computer system documentation	2 + current
Council Meetings: reports and agendas	Retain indefinitely
Council Tax records (non-current)	6
Departmental files for Building Control, Planning, and Trees (for Latent Damage Act purposes)	16
Flexible Working Hours adjustments	1 + current
Inland Revenue documentation	6
Inventory records	6
Land charges records	Retain indefinitely
Members' statutory registers (non-current)	4
Minutes - Council meetings: reference copy	Retain indefinitely
Mortgages: records/correspondence (non-current)	2 + current
Postal remittance lists	2 + current
Road fund licence records	2 + current
Stock lists	2 + current
Travelling and subsistence claims	2 + current
Vehicle logs	2 + current
Vehicle/machinery leasing records	2 + current

## Payroll

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Building Society reports	3
Copy payslips	6
Correspondence	6
NI number changes	3
Overtime records	6
Payroll adjustment documentation	6
Payroll reconciliations	6
Part time employees' documentation	6
Pension records	Retain indefinitely
SSP and SMP records	4
Staff transfer and leaver records	6
Starters' forms	2
Tax and National Insurance records	6
Tax code notifications	2 + current
Timesheets	6
Union records	2 + current

## **Personnel**

Personnel files (non-current)	6 + current
Staff contracts (non-current)	6
Unsuccessful candidates' job application forms	1





**CONTRACTS PROCEDURE RULES**

**(May 2008)**

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## **APPENDICES;**

### EXPLANATION OF TERMINOLOGY USED IN THIS DOCUMENT

- APPENDIX "A" - EXAMPLE OF FORM OF WAIVER
- APPENDIX "B" - QUICK REFERENCE DIAGRAM OF PROCUREMENT PROCEDURES (HOW WE BUY THE THINGS WE NEED)
- APPENDIX "C" - CURRENT CORPORATE CONTRACTS
- APPENDIX "D" - CURRENT CORPORATE FRAMEWORK CONTRACTS
- APPENDIX "E" - EQUALITIES & DIVERSITIES SUPPLIER/CONTRACTOR QUESTIONNAIRE

## 1. Introduction

- 1.1 These rules are the Council's procedure rules for buying for the Council ("the Rules"). They do not apply to internal purchases or service provision, only where you need to buy something from outside the Council.
- 1.2 They are the rules by which we spend money on the supplies, services and works we need to deliver our services. The Rules are part of the Council's Constitution and have been produced as part of our approach to the way we buy things.
- 1.3 The difference between supplies, works and services is explained in the Glossary of terms at the end of the Rules.
- 1.4 The Rules apply to any contract that results in a payment being made by the Council as well as to some types of contracts where a service is being provided for the Council which results in some income being generated for the Council.
- 1.5 The Rules also apply to the disposal of surplus goods and to concession contracts.
- 1.6 The Rules do not cover grants which the Council may receive or make (unless the grant is part of a contract for services).
- 1.7 The Rules do not apply to the purchasing of property.
- 1.8 If you are in any doubt about whether the Rules apply, you must always check with the Procurement Manager/Head of Legal, Equalities and Democratic Services
- 1.9 The Council's "best value duty" is very important. It means that we must always consider how each procurement is consistent with the Council's duty to secure continuous improvement in what we do having regard to value for money. We therefore need to question whether we should be buying anything at all and if we do, whether we can do it best ourselves, or jointly, or rely on someone else to get better value.
- 1.10 Government and EU public procurement policy require that the Council must permit, and be seen to be permitting, freedom of opportunity to trade with the Council and to be open and transparent about how we do things.
- 1.11 If we fail in this duty, a supplier or contractor may have cause for a complaint against us and in the worse case may be able to claim damages.
- 1.12 The most important principles are transparency, openness and fair competition. Whenever we are buying things for the Council we must always act to promote competition.
- 1.13 Our Rules have three main purposes:**
  1. to comply with the obligations that govern the spending of public money such as the EU procurement regime;
  2. to obtain Best Value in the way we spend money, so that we may in turn offer better and more cost effective services to the public; and

3. to protect people who follow the Rules.

## 1.14 The Rules are:

- written in plain English; and
- reflect the fact that the great majority of our spending is carried out by front-line services so the Rules help decisions to be made by the right people at the right level in the Council.
- Reflect the focus that the Council has on providing and demonstrating Value for Money in the provision of services to our residents

This document contains rules and refers to guidance. The Rules should be read alongside the Council's Procurement Guidance and Financial Regulations.

## 2. Context

- 2.1 The Procurement Manager is responsible for keeping the Rules under review and the Audit Department will monitor compliance.
- 2.2 The European Union sets down (through a Treaty) what the obligations are on us at the Council when we are buying things. The key principle is to ensure "competition" and an appropriate degree of advertising to make sure that everyone in the marketplace who could provide the goods, supplies, works or services to the Council is able to do so if they wish.
- 2.3 Our Rules also need to be flexible for the future. We all now need to think about, for example, e - auctions, e - tendering, Dynamic Purchasing Systems or setting up a framework. Increasingly Councils are collaborating through joint procurements, this Council already works with other authorities in Worcestershire and the wider sector to let Contracts where synergy exists.
- 2.4 If you are buying larger or costly goods, works or services, the Rules for higher value orders and contracts are stricter than for those of lower value. This is so that the benefits of a more thorough, complex process are not outweighed by cost relative to the value of the supplies, services or works in question.
- 2.5 At the highest end of the value scale, we must follow full EU Public Procurement Directives, requiring us to observe certain additional procedures. In these cases you must consult with the Procurement Manager before you start buying what you need.

## 3. Before We Start

### 3.1 The Competitive Process

- 3.1.1 EU law and Government policy says that we must always make sure that we are offering the opportunity to provide supplies works or services to the Council to the whole market to ensure competition.

- 3.1.2 The value of a contract means the estimated total monetary value over its full duration, including any extension options **(not the annual value)**.
- 3.1.3 Where the duration of a contract is indeterminate, this should be taken to be the estimated value of the contract over a period of four years. Contracts should not be artificially split to avoid the values.
- 3.1.4 The thresholds at which the different rules apply are summarised in the Guidance.

## **3.2 Who can buy things**

- 3.2.1 The Procurement Manager can provide you with a document which details limits within which Budget Holders and their authorised Officers may buy things for the Council. These limits must not be exceeded.
- 3.2.2 Budget Holders should ensure that procurement is undertaken by their procurement professionals or, where departments or functions have no specialist capability, by authorised Officers who can demonstrate skills and knowledge appropriate to the task supported and guided by the Procurement Manager. These Officers should already have authority under the Council's Constitution, if not, then they need to be granted authority from the relevant person or body.
- 3.2.3 Each Head of Service must keep a list of authorised Officers who can buy things on his/her behalf, specifying a maximum financial limit for each transaction against each name.
- 3.2.4 The list must be copied to the Procurement Manager
- 3.2.5 Before starting a procurement process, we need to make sure that we have carefully identified the need and fully assessed the options for satisfying it. Before you start, you **must** consider:
  - I. what is important to the Council in this procurement? Do you just need the supplies, works or services? Or are there other things you want to bring about (for example, improved environmental performance). In certain cases the procurement regime could help achieve these objectives but you must consult with the Procurement Manager;
  - II. can you buy what you need with another department or another Council? If you think you could save the Council money or achieve other advantages if you bought what you need with someone else, consider if there is an existing framework arrangement or contract which you can use. This framework or contract could be one already set up by the Council, another Council, a joint purchasing body, Consortia or run centrally by Government (examples being OGC Buying Solutions, Eastern Shires Purchasing Organisation "ESPO", Yorkshire Purchasing Organisation "YPO").
  - III. alternatively, there may be some kind of recognised purchasing consortia in place whereby members of the consortia may utilise the purchasing arrangements in order to procure goods and/or services. Note that where there is a consortia in place, you do not have to comply with these Rules, however, strictly only the goods and/or services that are the subject matter of the consortia arrangements may be procured. Where the goods

and/or services are outside the scope of the consortia arrangements you must utilise some other method of procurement in accordance with these Rules. The Procurement Manager can advise you further on this; and

- IV. will you or your partners be buying the same thing more than once? If so, it might be better to create a framework agreement so you can set up suppliers to provide you with the supplies, works or services you need when you need them. Again, could you set up a framework with other departments or Councils or is there already a joint purchasing organisation which could supply your needs?

**3.2.6 If following consideration of alternative buying solutions, a joint procurement or other form of collaborative procurement is to be used with another Council, the conduct of the procurement should be on terms no less rigorous than the requirements of these Rules for any Council procurement. The Procurement Manager/Head of Legal, Equalities and Democratic Services of the lead authority must certify in writing to all participating Councils and organisations that no less rigorous a process has been undertaken, prior to the contract start date.**

3.2.7 Should you decide that the goods and/or services are likely to be required in the future by the Council, it may be that the best way in which to buy the goods and/or services is by setting up a framework agreement. There are many types of contracts which will be suited to a framework arrangements and it is important that you see the Procurement Manager before commencing the procurement to ensure that the type of contract being used is most suitable.

### **3.3 Defining the Need**

3.3.1 As a minimum, you must clearly and carefully specify the supplies, services or works to be supplied, the agreed programme for delivery and the terms for payment together with all other terms and conditions that are agreed. You also need to ensure that you will have the funds in the budget to pay for them.

3.3.2 This means you must decide in advance of the competitive process the size, scope, and specification of the supplies, service or works required. If you are buying with someone else, you must decide this scope with your partners first.

3.3.3 You should always consider the Procurement Guidance and you must refer to and abide by any other Council policies which could apply to what you want to buy. If in doubt, you must check with the Procurement Manager

### **3.4 Purchase Strategy**

3.4.1 Once the need is determined, you must determine a contract strategy by which the supplies, works or services will be acquired. This means taking a step back from the traditional procurement process and assessing the options particularly to the provision of services.

3.4.2 Under Best Value legislation, you must consider options for the delivery of supplies, works or services. The options for supplies, works or services are:

- I. not buying the supplies, having the works done or providing the services at all;

- II. providing the goods, works or services ourselves (for example, by taking surplus supplies from another department or using their staff);
- III. getting someone else to provide the ongoing supplies, works or service (“outsourcing”/ provision by the private, voluntary, “third” sectors or another local authority or public body);
- IV. providing the supplies, works or services in partnership with someone else (with the private, voluntary, “third” sectors or another local authority or public body);
- V. by commissioning jointly with another Council; and / or
- VI. shared service delivery with another Council i.e. by delegating our functions to another Council, setting up a Joint Committee or setting up a new company to deliver the services for us or with other authorities jointly.

## **4. How We Buy the Things We Need**

### **4.1 Full Tender Procedures (not over the EU thresholds)**

- 4.1.1 For purchases valued at over £50,000 a full and formal tender process must be conducted in the manner outlined below and prior approval of the proposed tender process must be sought from the Procurement Manager. A full suite of standard documents to be used, including the relevant Council Terms and Conditions, is available on the Intranet under ‘Procurement’ and ‘Tender Documentation’
- 4.1.2 The procedure to be followed must be determined prior to advertising and must be one of the following:
  - I. open tender (all interested contractors submit a tender in response to an advertisement);
  - II. restricted procedure (expressions of interest from interested contractors in response to an advertisement, with a selection of those contractors being invited to submit a tender);
  - III. negotiated procedure (expressions of interest from interested contractors in response to an advertisement, with a selection of those contractors being invited to negotiate); or
  - IV. where a Framework arrangement (including approved lists) exists in respect of the subject matter, tenders shall be invited using the Framework arrangement from capable contractors having regard to the principles of Best Value.

**The minimum number of Bidders to be invited will depend upon the type of contract to be let and this will be advised by the Procurement Manager**

### **4.2 Intermediate-value transactions**

- 4.2.1 For transactions valued over **£10,000 below £50,000**, at least three written quotations must be invited before a purchase order or contract is issued,

specifying the supplies, services or works and setting out prices, terms and conditions of contract and terms of payment.

4.2.2 Emailed quotations are acceptable in these cases but copies must be retained on the relevant file.

4.2.3 If only one quotation is received you **must** to seek some more quotations or obtain an **exemption** from the Rules in accordance with section 9 (Form of Waiver). Receipt of two comparable quotations will be sufficient.

### 4.3 Lower value transactions

4.3.1 For transactions valued at **between £5,000 and £10,000** at least three written quotations must be obtained from a supplier before a formal purchase order is issued specifying the supplies, services or works and setting out prices and terms of payment unless a framework already exists. If a framework already exists then you **must** follow the procedure set out in that framework.

4.3.2 For purchases up to the value **of £5,000** you must, unless you are purchasing from an existing Corporate Contract (**see current list at Appendix "C"**) provide evidence of competitive enquiries being undertaken with details of your final selection criteria recorded and retained on file.

### 4.4 In all cases

4.4.1 Your purchase order **must** contain the standard form of terms and conditions of contract between the Council and the supplier. A quotation and a purchase order will create a legally binding contract. The purchase order is used to formalise the terms of the contract.

4.4.2 Emailed quotations are acceptable for lower value purchases but copies must be retained on the relevant file.

**SEE ALSO Appendix "B" - Visual Procurement Procedure's for a quick reference guide**

### 4.5 Framework agreements

4.5.1 Framework agreements for supplies and services must be used where they exist, regardless of value. A list of current Corporate Framework Contracts is available at Appendix "D"

4.5.2 Framework agreements are agreements with suppliers for the provision of supplies, works or services on agreed terms for a specific period for estimated quantities against which orders may be placed if and when required during the contract period. They offer benefits of bulk-buying, improved service and reduced administration costs over the period of the arrangement.

4.5.3 A framework agreement may have the option for you to hold a "mini - competition" with all of the suppliers on the framework when you come to buy for the Council.

4.5.4 You must investigate whether call-off contracts or frameworks are relevant in your own case as you could get better value for the Council by using an existing framework (and if relevant the central Government agreements) and that you can properly use them.



4.5.5 If there is not a framework already in place (or if one does not exist with partners which you can use) then you **must** consider if it would be better value to set up a framework. This is likely where you are going to need to buy the same or similar things again in the future. Guidance on how to set up a framework is in the Procurement Guidance and you should liaise with the Procurement Manager

## 4.6 Electronic Procurement

4.6.1 An approved Purchasing Card should always be used in preference to paper purchase orders wherever appropriate.

4.6.2 Electronic procurement (or “e-procurement”) systems should always be used in preference to paper transactions.

## 4.7 Concession Contracts

4.7.1 A Concession Contract is used where the Council wishes to engage a party to provide a service within the Council area, consideration for which is in the form of the party (“the concessionaire”) being given a right to charge the public for the services being provided.

4.7.2 The EU procurement rules do not apply to public works concessions for which the estimated value is under the relevant EU threshold and there are a number of exemptions where a public works concession contract is proposed.

4.7.3 Where the concessionaire intends to sub-contract the performance of services the concessionaire may in certain circumstances fall within the scope of the EU procurement rules. In all cases, where the concessionaire is procuring goods and/or services as a part of the concession contract, any procurement should be carried out in accordance with these Rules.

4.7.4 Advice from the Procurement Manager must be sought before engaging in any procurement relating to a concession contract.

## 5. The EU Directives

### 5.1 Additional requirements for transactions valued over EU thresholds

Contract values (excl. VAT) above which procedures governed by the EU Directives apply are currently (applicable from 1<sup>st</sup> January 2008):

For supplies and services (including goods and consultancy services):	£139,893
For works:	£3,497,313

(Please note that these thresholds are amended bi-annually in January and you must refer to the Procurement Manager to check the latest thresholds)

### 5.2 Aggregation

5.2.1 We must never deliberately split the value of contracts.

5.2.2 Wherever possible, the Council should make its purchases in the form of a single large contract in preference to a series of smaller contracts this to obtain maximum benefit in terms of prices/costs obtained

5.2.3 We must calculate the value of the separate contracts of the same type over a short period together for the purpose of determining if the value of the contract falls within the threshold. (See also 3.3 and 3.4 above).

### **5.3 Procedures governed by the EU Directives**

5.3.1 If your contract has a value over this threshold you must consider whether you must procure under the Public Contracts Regulations 2006.

5.3.2 The Regulations contain provisions relating to submitting of notices and other documents electronically.

5.3.3 Your contract must be tendered under the Open, Restricted, Competitive Dialogue (for particularly complex contracts) or, in exceptional circumstances, the Negotiated procedure.

5.3.4 The EU Directives and UK Regulations are very long and only the principal requirements can be given here. If in doubt, refer to the Guidelines and advice should be sought from the Procurement Manager

5.3.5 For each contract, except where indicated below, a Contract Notice must be published in the Supplement to the Official Journal of the European Union (OJEU). Advertisements published additional to this:

- Must not appear in any form before a Contract Notice is transmitted to OJEU; and
- Must not contain any information additional to that contained in the Contract Notice in OJEU.

5.3.6 Minimum timescales relating to tender procedures governed by the EU Directives are shown in the Guidance and these must always be followed.

5.3.7 Where a Prior Information Notice (PIN) announcing a forthcoming Contract Notice has been sent to OJEU between 52 and 365 days before the Contract Notice is sent, reduced timescales may apply.

### **5.4 Use of the Competitive Dialogue Procedure governed by EU Directives**

5.4.1 Advice must be sought from the Procurement Manager at the earliest opportunity before commencing a tender process governed by EU Directives particularly when using either the Competitive Dialogue or the Negotiated Procedure.

5.4.2 Under EU Directives, the Competitive Dialogue Procedure may be used for contracts valued at or over EU thresholds in certain circumstances where:

- I. we wish to award a particularly complex contract and think that the use of the open or restricted procedures will not allow the award of that contract;
- or

- II. the contract is for a service and the precise nature of the service required cannot be clearly specified or accurately priced (e.g. some PFI or PPP contracts, bespoke software applications, insurance services, intellectual and artistic services).

**5.4.3 The Negotiated Procedure should not now be used** (except in very specific circumstances) for the procurement of particularly complex projects.

5.4.4 If in doubt, you must contact the Procurement Manager/Head of Legal, Equalities and Democratic Services

## **5.5 Contract Award Notice**

5.5.1 For all contracts tendered under EU Directives, a ten-day 'standstill period' must be observed between the decision to award and contract conclusion. Once the decision to award a contract is made, each tenderer must be notified in writing on the outcome of the tender process. This notification must include:

- √ details of the contract award criteria;
- √ where practicable the score the tenderer obtained against those award criteria;
- √ where practicable the score the winning tenderer obtained; and
- √ the name of the winning tenderer.

5.5.2 There must be a minimum of 15 calendar days between the despatch of this notification and the conclusion of the contract. Special rules apply where a tenderer requests a de-brief on the tender process. Even if a tenderer asks for a de-brief outside of the standstill period we are still obliged to provide this.

5.5.3 In this instance, advice must be sought from the Procurement Manager at the earliest opportunity. All contracts awarded under EU Directives must be announced by means of a Contract Award Notice in OJEU transmitted no later than 48 calendar days after the date of award.

## **6. Integrating Equality and Diversity into Procurement**

### **6.1 Why include equality and diversity in procurement?**

6.1.1 Bromsgrove District Council wants to make Bromsgrove a cohesive, multi-cultural society in which all differences are valued and celebrated. To achieve this we have committed ourselves to the principles of fairness and valuing diversity for everyone who lives, works, studies, invests in or visits Bromsgrove. We operate an Inclusive Equality Scheme which sets out the details of this commitment. This includes:

- Our principles, values and standards
- Our strategic aims and objectives
- Our structures

- Our goals in employment

6.1.2 The public sector, in general, and local government in particular are increasingly involved in joint working with partner organisations from the public, private and voluntary sectors.

6.1.3 The Council's responsibilities for leadership within the district and for the provision of quality services which are responsive to individual and community needs underline the importance of working with partner organisations and contractors to promote the values for which we stand and bring about our vision of valuing diversity.

6.1.4 In particular we commit ourselves to:

- Working with and influencing our partner organisations to make Bromsgrove a place where diversity is valued and celebrated.
- Requiring all contractors to comply with the Council's Standing Orders / Contract Procedure Rules / Constitution relating to contracts.
- Assisting partner organisations and contractors to become organisations which understand and oppose all forms of institutional discrimination.

## **6.2 The Role of Procurement in Promoting Equality**

6.2.1 The Council provides a wide range of services to the community and businesses in the district. In some cases these are provided directly by the Council, in other cases on our behalf by contractors and partners.

6.2.2 Each year the Council can enter into contracts worth many thousands of pounds for buying goods, works and services on behalf of the Bromsgrove community. Therefore, the services provided to the community should be geared towards their diverse needs and requirements.

6.2.3 Spending by the Council sustains and maintains a significant number of jobs within the district. The Council has a statutory duty to ensure that public money is spent in a way that ensures value for money and does not lead to unfair discrimination and social exclusion.

6.2.4 The promotion of equality in procurement will help the Council to:

- Improve the overall value for money for the Council in terms of the goods, works and services they purchase
- Improve the quality, responsiveness and appropriateness of our services.
- Ensure that public money is not spent on practices which lead to unfair discrimination to sections of the district.
- Create a diverse and integrated workforce.
- Deliver more responsive and flexible services in combating social exclusion and building stronger and cohesive communities.

- Encourage other organisations to promote and practice the Council's policies on equality.

## 7. Tender Procedures

### 7.1 Receiving and opening tenders

7.1.1 Every response to an invitation to tender for a transaction valued over £50,000 should be delivered:

- √ no later than the time specified for submission of tenders in the invitation to tender (and addressed to the person at the place specified in the invitation to tender (or e-mail address));
- √ on CD ROM, or via email (depending on your procurement approach) (or provided in hard copy as a last resort); and
- √ with no labelling or other markings on the CD ROM or packet that identifies the tenderer.

7.1.2 The Head of Service must keep the tenders secure until the time specified for their opening. Two officers must open all tenders at the same time, one of whom must work in another department, section or unit. All pages from each tender detailing prices or costs must be initialled and dated by the officers opening the tenders or bids.

The opened tenders must be recorded on the list of tenders invited.

email: Tenders/Bids must be sent to [e-tenders@bromsgrove.gov.uk](mailto:e-tenders@bromsgrove.gov.uk) which is a secure facility

email: Quotations must be sent to [e-quotations@bromsgrove.gov.uk](mailto:e-quotations@bromsgrove.gov.uk) which is also a secure facility

Both can only be opened at the appropriate time by nominated Officers

### 7.2 Evaluating tenders

7.2.1 Where written quotations are invited for contracts valued over then the bidder submitting the lowest price compliant bid must be awarded any resulting contract, unless alternative pre-determined criteria are detailed in the document used to invite bids awarded on that basis.

7.2.2 For contracts valued over £50,000 and for all contracts governed by EU Directives, a more complex Best Value tender evaluation procedure based on the identification of the Most Economically Advantageous Tender ("MEAT") should be used. There are some situations, however, where MEAT will not be an appropriate method of evaluation - usually where the only discerning factor between products and/or solutions will be that of price (e.g. where you are buying stationery or other standard items). It is unlikely that providers for Services or Works could be selected on price alone as these will often require more subjective evaluation techniques. While criteria for evaluation is at the discretion of the

Council care needs to be taken that using a lowest price method of evaluation rather than using MEAT is appropriate for the procurement.

7.2.3 This evaluation involves scoring tenders objectively by a panel of three or more officers and/or independent experts using criteria which must:

- √ be pre-determined and listed in the invitation to tender documentation in order of importance;
- √ be based on an offer made against either a performance or output based specification of the goods or services required
- √ be strictly observed at all times throughout the tender process;
- √ reflect the principles of Best Value;
- √ include price;
- √ consider whole-life costing, particularly in the case of capital equipment where the full cost of maintenance, decommissioning and disposal should be taken into account;
- √ be capable of objective assessment;
- √ be weighted according to their respective importance;
- √ include, where applicable, the quality of the tenderers' proposals to accept a transfer of staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE); and
- √ avoid discrimination or perceived discrimination on the basis of nationality, or other cause contrary to any of the Council's policies.

7.2.4 Where this evaluation methodology is used, any resulting contract must be awarded to the tenderer which submits the most economically advantageous tender, i.e. the tender that achieves the highest score in the objective assessment. This protects the Council from any 'challenges' which potentially could result in prosecution or fines.

### 7.3 Awarding contracts

**7.3.1 IT IS A MANDATORY REQUIREMENT BEFORE ANY PROPOSED CONTRACT IS FINALLY SIGNED THAT IT BE PASSED TO THE LEGAL DEPARTMENT FOR CLEARANCE AND FINAL APPROVAL**

7.3.2 The results of the tender evaluation process must be recorded in writing.

7.3.3 A contract must only be awarded and signed by a person authorised to do so, who must ensure that the appropriate budget holder has the funds in place to sustain the contract prior to award.

7.3.4 Budget Holders should ensure that proper records of all procurement activity are retained in electronic or hard-copy format as appropriate.

7.3.5 For all transactions valued at or over £50,000, brief details must be passed to the Procurement Manager

## 7.4 Contract Management

7.4.1 When preparing the specification for the contract it is important to ensure that consideration is given to what performance information will be required from the supplier. Performance information will be required in order to measure whether the supplier is meeting the service levels and targets as specified in the contract. In addition it may be necessary for the supplier to provide performance information to enable the Council to meet statutory requirements, such as the need to provide performance information to the Audit Commission each year for the National Indicator set of measures. The specification should set out not only what is required but also the frequency and timeliness on which the performance information is required. In the tender response the tenderers should be invited to demonstrate how they will ensure that performance data they supply is of adequate quality, such as information about quality processes and procedures used and quality standards achieved

7.4.2 It is essential to good contract management that a realistic set of Key Performance Indicators (KPI's) is built into the Specification upon which the contract is to be let. This allows Officers to hold regular meetings with contractors throughout the life of the contract to monitor and manage the supplier/contractor against the KPI's to ensure that they deliver what the Council has contracted for consistently in terms of quality, cost and benefit.

Letting the contract is just the first step.

## 8. Conditions of Contract

8.1 It is important to Contract only under the Councils relevant Conditions of Contract (unless you receive permission not to do so from the Procurement Manager or the Head of Legal, Equalities and Democratic Services Officers must use an appropriate model form of contract approved by the Procurement Manager, which is available on the Intranet under "Procurement"

8.2 For all contracts for services where the services are of an unusual or complex nature, the Head of Legal, Equalities and Democratic Services must be consulted to produce a suitable set of conditions of contract (with external advisors if necessary) before inviting tenders.

8.3 Where a contract is considered to be of a strategically important or politically sensitive nature or where the extended **limitation period** would be of value, the contract must be in writing and executed under seal.

8.4 The Procurement Manager will:

- I. keep a record or list of all model sets of terms & conditions of contract that gives details of when the conditions were last updated, who is responsible for their updating and contact references;

- II. review all current conditions of contract, at least every 12 months, or when new legislation is introduced;
- III. monitor and review conditions of contract issued by other organisations from time to time;
- IV. keep a record of all framework arrangements and joint working arrangements with other departments Councils and other organisations and update this record on a regular basis and no less than twice per year;
- V. maintain the Procurement information and documentation set out in the relevant section on the intranet;
- VI. ensure that information is circulated to and appropriate access for Heads of Service/Budget Holders are updated with any new or revised local or joint framework arrangements and/or call-off contracts

## 9. Parent Company Guarantees

- 9.1 The person buying for the Council must consult the Procurement Manager on all tenders where the total value exceeds £100,000 to determine if a bond, parent company guarantee or other security is required.

## 10. Exemptions from the Rules

- 10.1 Exemptions from these Rules must be obtained utilising a completed 'Form of Waiver' (see Appendix "A") **in advance** in accordance with the following procedure.
- 10.2 An exemption **cannot** be given for an EU procurement (for more information see section 13).
- 10.3 An exemption may be agreed by the appropriate person on receipt of a completed Form of Waiver if they are satisfied that the exemption is justified.
- 10.4 A signed copy of the Form of Waiver must be sent to the Head of Finance
- 10.5 You must follow the Procurement Guidance if you do not follow the Rules. If you do not follow the Guidance and enter into a contract on behalf of the Council this could be a disciplinary offence.

**See also Appendix "A" – Example of Form of Waiver to be used to obtain exemptions**

## 11. Transfers of Contracts

- 11.1 In appropriate circumstances the Council may agree to transfer a contract.



- 11.2 This decision must be taken by the CMT for contracts of a value in excess of £100,000 (one hundred thousand) and by the relevant Head of Service for contracts of a value up to £100,000 (one hundred thousand).
- 11.3 The Procurement Manager must hold a complete record of all exemptions and transfers and submit a quarterly report to the Head of Finance.

## **12. Conflicts of Interest**

- 12.1 Any interest which may affect the award of a contract under these Rules must be declared. Every officer entitled to buy supplies services or works must make a written declaration of interests and update it immediately when an interest changes.
- 12.2 The Procurement Manager must either certify such interests as being acceptable or take any necessary action in respect of potential conflicts of interest and the officer should take no part in the award of a contract by the Council.
- 12.3 No gifts or hospitality should be accepted from any tenderers to any contract being let by the Council and to do so is a disciplinary offence. You must inform the Procurement Manager if you are dealing with a contract for the Council and have been offered such a gift or hospitality.

## **13. Variations and extensions**

- 13.1 Subject to any statutory restrictions and compliance with these Rules, a Head of Service may authorise the following extensions and variations to an existing contract either:
- an extension for a particular period provided for within the terms and conditions of the contract (but subject to satisfactory outcomes of contract monitoring); or
  - a single extension of the contract by up to six months, or half the contract term (whichever is less); and
  - any other variation, and if relevant a consequent change in price, determined in accordance with the contract terms.
- 13.2 In any other circumstances the Head of Service may vary or extend a contract providing that to do so is consistent with the provisions of Financial Regulations.
- 13.3 Contracts procured under the EU Regulations must not be extended or varied without consulting the Procurement Manager.

## **14. Impact on other Council Policies**

- 14.1 When you are buying anything for the Council you **must** consider the importance and Impact of the other policies of the Council on what you are buying (e.g. Sustainability, Environmental or Equalities & Diversities policies).
- 14.2 Details of the current Council Policies in all areas can be found on the Intranet under 'Procurement'

## 15. Terminology/Glossary

- 15.1 A **public supply contract** is a contract:  
For the purchase of "goods"("Goods" do not include land "or the product of an activity"), or The hire of "goods" with or without the siting or installation of those "goods" .
- 15.2 A **public works contract** is a contract:  
For the carrying out of a "work" or works, under which the authority engages a person to procure a work "by any means" (see below for definition).

A "**work**" is defined as including:

- Building and civil engineering work
- Construction of office blocks, hospitals or other buildings;
- Civil engineering construction of roads, bridges, railways;
- Installation work of, for example, heating and electric equipment;
- Completion work such as tiling and papering;
- Maintenance of buildings.

The following activities may also be regarded as a **works contract**:

- A contract where an authority engages a provider to act as agent for the authority in letting contracts
- An agreement where a developer constructs a building on its own land (according to an authority's needs) and undertakes to transfer the land and structure to the authority upon completion or at a later date.

- 15.3 A **public services contract** is one under which the authority "engages a person to provide services". The Services Regulation divides services into two categories: "Part A services" and "Part B services"

Part A services are listed in Part A of Schedule I to the Services Regulation. Contracts for Part A services are subject to the Regulation, including tendering procedural rules, specifications, pre-qualifications, etc.

"Part B services" are subject only to limited provisions - rules on technical specifications, contract award notices and submission of statistical reports. Part B services are all those services set out in Part B of Schedule I to the services Regulation. In addition they include all those services that fall outside of Part A.

Where a contract involves both Part A and Part B services, its classification is determined by the service that has the greatest value of the contracts. See the Guidance for detailed lists of Part A and Part B services

## 15.4 Open Procedure

This means an advert will be placed in OJEU and the relevant press and trade journals. The tender will be open to anyone who expresses an interest.

## 15.5 Restricted Procedure

This means an advert will be placed in OJEU the relevant press and trade journals.

Organisations which express an interest will be required to complete a Pre-Qualification Questionnaire (PQQ). The Council will evaluate the PQQ's and produce a shortlist of suitable organisations which will then be invited to tender (ITT).

## 15.6 Competitive Dialogue Procedure

This is used when the Council is unable to provide a precise specification and where there is scope to negotiate about what services they can provide. The purpose of this procedure is to negotiate on the specification of the project and not on the price.

An advert is placed in the relevant trade journals, press and where appropriate in the Official Journal of the European Union (OJEU). The advert contains details of the scheme and instructions for downloading the tender documents and Pre-Qualification Questionnaire (PQQ).

Organisations will then submit a completed tender and PQQ via the website or submit a hard copy in the envelope provided.

Regardless of whether it is submitted electronically or in paper format, the tender and PQQ must be submitted before the deadline.

## 15.7 Electronic Procurement

This means procurement using the internet including on line e-auctions and buying portals. You can take advantage of reduced minimum time periods when you procure your contract under the EU procurement regime and submit your documents electronically.

## Appendix "A" - Example of Form of Waiver

### BROMSGROVE DISTRICT COUNCIL

Contract ref (if any):

#### PRO-FORMA REQUEST FOR THE WAIVERING OF TENDERING/QUOTATION PROCEDURES

In accordance with the Bromsgrove District Council Contracts (BDC) Procedure Rules (January 2008) tendering/quotation procedures may be waived when the work/services is of an urgent nature or other special circumstances as described in Section A and may only be actioned on the written authority of the appropriate Head of Service for Contracts valued up to £29,999 OR a Corporate Director for Contracts valued over £29,999.

#### **SECTION A - TO BE COMPLETED BY THE PERSON MAKING THE REQUEST:**

*Directorate/Department:*

*Item of Equipment/Services:*

*Estimated/Actual Cost (including delivery, maintenance, training, etc. if applicable):*

*Please indicate in the space provided below why the goods/services available from: are the only goods/services which meet your requirements:*

*If it is essential that the goods/services be purchased from the Supplier nominated above rather than as the result of competitive tendering or any existing approved source please give reasons: (Refer to Guidance Notes (below) stating the reason which best describes your course of action):*

Signed .....

.....

Designation .....

Date.....

IN SIGNING THIS FORM I DECLARE THAT I DO NOT HAVE A PECUNIARY OR OTHER INTEREST IN THE COMPANY INVOLVED IN THE SUPPLY OF THE ITEMS/SERVICES LISTED ABOVE.

**SECTION B - TO BE COMPLETED BY THE APPROVING OFFICER**

REQUEST \*ACCEPTABLE/UNACCEPTABLE (\*delete as appropriate)

COMMENTS (if any)

.....

.....

.....

.....

SIGNED ..... DATE

.....

**IF ACCEPTABLE PLEASE FORWARD IMMEDIATELY TO REQUISITIONER FOR ACTION (with The Procurement Unit).**

**IF UNACCEPTABLE PLEASE RETURN TO THE ORIGINATOR OF THIS REQUEST WITH COMMENTS AS APPROPRIATE.**

**N.B. In Both cases a copy MUST be sent to the Corporate Procurement Unit**

**Guidance Notes**

Formal tendering procedures may be waived by officers to whom powers have been delegated by BDC's Scheme of Delegations without reference to an Approving Officer (except in (c) to (f) below) where:

- a) the estimated expenditure or income does not, or is reasonably expected to, exceed the financial limits laid down by BDC; or
- b) where the supply is proposed under special arrangements negotiated by the OGC/OGCs in which event the said special arrangements must be complied with;

- c) the timescale genuinely precludes competitive tendering. Failure to plan the work properly is not a justification for a single tender;
- d) specialist expertise is required and is available from only one source;
- e) the task is essential to complete a project, and arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate;
- f) there is clear benefit to be gained from maintaining continuity with an earlier project . However, in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering;

The limited application of the single tender rules should not be used to avoid competition or for administrative convenience or to award further work to a consultant originally appointed through a competitive procedure.

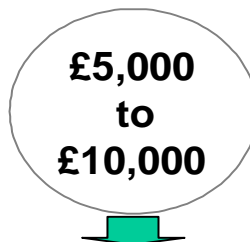
Where it is decided that competitive tendering is not applicable and should be waived by virtue of (c) to (f) above the fact of the waiver and the reasons should be documented and reported by the BDC Finance Director on a monthly basis.



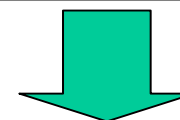
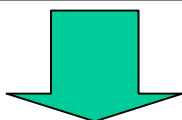
# QUICK REFERENCE PROCUREMENT PROCEDURES

(Extracted from 'Contracts Procedure Rules')

**VALUE - This must be the aggregated total spend over life of any contract/agreement**



**MINIMUM ACTION REQUIRED**



Use approved Corporate Contracts or Frameworks first (if available)

Use approved Corporate Contracts or Frameworks first (if available)

Use approved Corporate Contracts or Frameworks first (if available)

**OR**

**OR**

**OR**

There must be evidence of competitive enquiries being undertaken with details of final selection criteria recorded and retained for one year from date of purchase (this can be in electronic form e.g. email)

You must obtain a minimum of three (3) written quotations and obtain the written approval of the Budget Holder prior to placing an official Purchase Order

You must obtain a minimum of three (3) written quotations and obtain the written approval of the relevant Head of Service prior to placing an official Purchase Order

A. Haslam Jan 2008



# QUICK REFERENCE PROCUREMENT PROCEDURES

(Extracted from 'Contracts Procedure Rules')

**VALUE - This must be the aggregated total spend over life of any contract/agreement**

£50,000  
to  
£144,000

OJEU  
£144,371  
plus  
Supplies

£3,611,000  
Works

**MINIMUM ACTION REQUIRED**

A full Tender process must be undertaken using standard approved documentation and with the support and guidance of Procurement and Legal (where applicable) The number of Bidders to be invited will depend upon the type of contract to be let and this will be decided on a case by case basis. Adequate advertising to ensure Competition will be necessary

Seek advice & guidance from Procurement at Planning stage

Seek advice & guidance from Procurement at Planning stage

Subject to check if full EU Regulations for Supplies and Services apply – Also check if a Bond is required

Subject to check if full EU Regulations for Works Contracts apply – Also check if a Bond is required. **Approval by CMT**



Do not take risks - consult Procurement/Legal

A. Haslam Jan 2008



## Appendix "C" – Current Corporate Contracts

Goods/Services Provided	Supplier Name	Contract Expires
Stationery – Core Items (Excl Copier Paper And Furniture)	Office Depot	

## Appendix "D" – Current Corporate Framework Contracts

Goods/Services Provided	Supplier Name	Contract Expires
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## Appendix “E” – Equalities & Diversity

### Equalities Questionnaire

**Section A – Compulsory Questions**

*To be completed by all those suppliers/contractors invited to tender*

Section A of this questionnaire must be completed satisfactorily in order for any company to be considered for any Approved List or to tender for any Council contract. The equality legislation consists of the Race Relations Act 1976, the Sex Discrimination Act 1975, the Equal Pay Act 1970, the Disability Discrimination Act 2005, the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Religion/Belief) Regulations 2003, the Employment Equality (Age) Regulations 2006, all amendments to these Acts and all relevant regulations made under them.

[Please tick appropriate box to answer questions and if you wish to provide additional information please attach supplementary sheets, but keep this to a minimum]

1. Do you have policies in place to ensure that you as an employer and as a service provider comply with your statutory obligations under the equality legislation, which applies to Great Britain, or equivalent legislation in the countries in which you employ staff?

Yes

No

2. Accordingly, do you have policies in place to ensure that you do not discriminate directly or indirectly in breach of equality legislation which applies in Great Britain and legislation in the countries in which you employ staff:

- In relation to decisions to recruit, select, remunerate, train, transfer and promote employees?

Yes

No

- In relation to delivering services?

Yes

No

3. Do you have a written equality policy?

Yes

No

4. Does your written equality policy cover:

- Recruitment, selection, training, promotion, discipline and dismissal?

Yes

No

- Victimisation, discrimination and harassment making it clear that these are disciplinary offences?

Yes    No

- The identity of the senior position for responsibility for the policy and its effective implementation?

Yes    No

5. Is your policy on equality set out:

- In documents available and communicated to employees, managers, recognised trade unions or other representative groups?

Yes    No

- In recruitment advertisements or other literature?

Yes    No

- In materials promoting your services?

Yes    No

If you answered NO to any part of questions 4 or 5 please provide list evidence to show how you promote equality in employment and service delivery

If you answered YES to any part of questions 4 or 5, detail list evidence that can support your answers below

6. In the last three years, have any findings of unlawful discrimination been made against you or your firm by the Employment Tribunal, the Employment Appeal Tribunal or any other court or in comparable proceedings in any other jurisdiction?

Yes

No

7. In the last three years, has any contract with you or your firm been terminated on grounds of your failure to comply with:

- Legislation prohibiting discrimination?

Yes

No

- Contract conditions relating to equality?

Yes

No

8. If the answer to question 6 or 7 is YES please provide details below and specify what steps you or your firm have taken as a result (continue on an additional sheet if required)

9. In the last three years, have you or your firm been the subject of formal investigations by the Equality and Human Rights Commission, (or its predecessors the Commission for Racial Equality, the Disability Rights Commission, the Equal Opportunities Commission) or a comparable body, on grounds of alleged unlawful discrimination?

Yes

No

10. If the answer to question 9 is YES please provide details below and specify what steps you or your firm have taken as a result (continue on an additional sheet if required)

11. If you are not currently subject to UK employment law please supply details of how you or your firm comply with equivalent legislation that is designed to eliminate discrimination and to promote equality of opportunity (continue on an additional sheet if required)

**Section B – Additional Equalities Questions**

*To be completed when equality is considered a core requirement or if the contract value is £1M or more.*

12. Are members of your staff with managerial responsibilities required to receive equalities training?

Yes

No

If you have answered YES to question 12, please provide a list of such training (continue on an additional sheet if required)

13. Do you issue your written equality policy to managers and supervisors concerned with recruitment, selection, remuneration, training and promotion?

Yes

No

14. Do you have procedures in place to protect members of your staff from unlawful discrimination by other members of staff or by members of the public?

Yes

No

If you have answered YES please list the procedures below (continue on an additional sheet if required)

For firms who sub-contract

15. Do you require sub-contractors to demonstrate evidence of their equality policies and practices?

Yes

No

If you have answered YES, please provide details of what kind of evidence sub-contractors are required to submit (continue on additional sheet if required)

If you have any other information regarding your policies on equality and practices that you wish to be considered, including information on work you have done in previous or existing contracts, and references, which cover equalities please detail below (continue on additional sheet if required)

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## PART 17

### OFFICER EMPLOYMENT PROCEDURE RULES

#### Definitions

*(Mandatory provisions to be incorporated – The Local Authorities (Standing Orders) Regulations 2001(as amended) Schedule I Part II)*

1. In this Part:
  - "the 1989 Act" means the Local Government and Housing Act 1989;
  - "the 2000 Act" means the Local Government Act 2000;
  - "disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001(as amended);
  - "executive" and "executive leader" have the same meaning as in Part II of the 2000 Act;
  - "member of staff" means a person appointed to or holding a paid office or employment under the authority; and
  - "proper officer" means an officer appointed by the authority for the purposes of the provisions in this Part.

#### Appointment and Dismissal of Staff

2. Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority's paid service or by an officer nominated by him.
3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against:
  - (a) the officer designated as the head of the authority's paid service;
  - (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
  - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
  - (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).
4. (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority's paid service, the

## PART 17

authority must approve that appointment before an offer of appointment is made to that person

(1A) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority's paid service, as the authority's chief finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice is given to that person.

(2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one member of the executive must be a member of that committee or sub-committee.

5. (1) In this paragraph, "appointer" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.

(2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointer until:

(a) the appointer has notified the proper officer of the name of the person to whom the appointer wishes to make the offer and any other particulars which the appointer considers are relevant to the appointment;

(b) the proper officer has notified every member of the executive of the authority of:

i. the name of the person to whom the appointer wishes to make the offer;

ii. any other particulars relevant to the appointment which the appointer has notified to the proper officer; and

iii. the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and

(c) either:

i. the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the

## PART 17

appointer that neither he nor any other member of the executive has any objection to the making of the offer;

- ii. the proper officer has notified the appointer that no objection was received by him within that period from the executive leader; or
- iii. the appointer is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

6. (1) In this paragraph, "dismissor" means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until:
- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - (b) the proper officer has notified every member of the executive of the authority of:
    - i. the name of the person who the dismissor wishes to dismiss;
    - ii. any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
    - iii. the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
  - (c) either:
    - i. the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he nor any other member of the executive has any objection to the dismissal;
    - ii. the proper officer has notified the dismissor that no objection was received by him within that period from the executive leader; or

## PART 17

- iii. the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.
7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
  - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

### **Disciplinary Action**

*(Mandatory provisions to be incorporated – The Local Authorities (Standing Orders) Regulations 2001 (as amended) Schedule 3)*

8. In the following paragraphs –
- (a) “the 2011 Act” means the Localism Act 2011;
  - (b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities Standing Orders)(England) Regulations 2001;
  - (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
  - (d) “local government elector” means a persons registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
  - (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
  - (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and

## PART 17

- (g) “relevant officer” meant the chief finance officer, head of the authority’s paid service or monitoring officer , as the case may be.
9. A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.
  10. The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
  11. In paragraph 10 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considered appropriate.
  12. Subject to paragraph 13, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation in accordance with paragraph in accordance with the following priority order-
    - (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
    - (b) any other relevant independent person who has been appointed by the authority;
    - (c) a relevant independent person who has been appointed by another authority or authorities.
  13. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 12 but may do so.
  14. The authority must appoint any Panel at least 20 working days before the relevant meeting.
  15. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular\_
    - (a) Any advice, views or recommendations of the Panel;
    - (b) The conclusions of any investigation into the proposed dismissal; and
    - (c) Any representations from the relevant officer.
  16. Any remuneration, allowance of fees paid by the authority to an independent person appointed to the Panel must not exceed the level

## PART 17

of remuneration, allowance or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

### **Declarations – relatives of existing councillors and officers**

17. The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons.
18. No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him/her.

### **Seeking support for appointment**

19. The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
20. No Councillor will seek support for any person for any appointment with the Council.

### **Recruitment of Head of Paid Service and Chief Officers**

21. Where the Council proposes to appoint a chief officer (within the meaning of the Local Authorities (Standing Orders) Regulations 1993) and it is not proposed that the appointment be made exclusively from among their existing officers, the Council shall—
  - (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; and
  - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
22. (1) Where a post has been advertised as provided in rule 15(b), the Council shall—

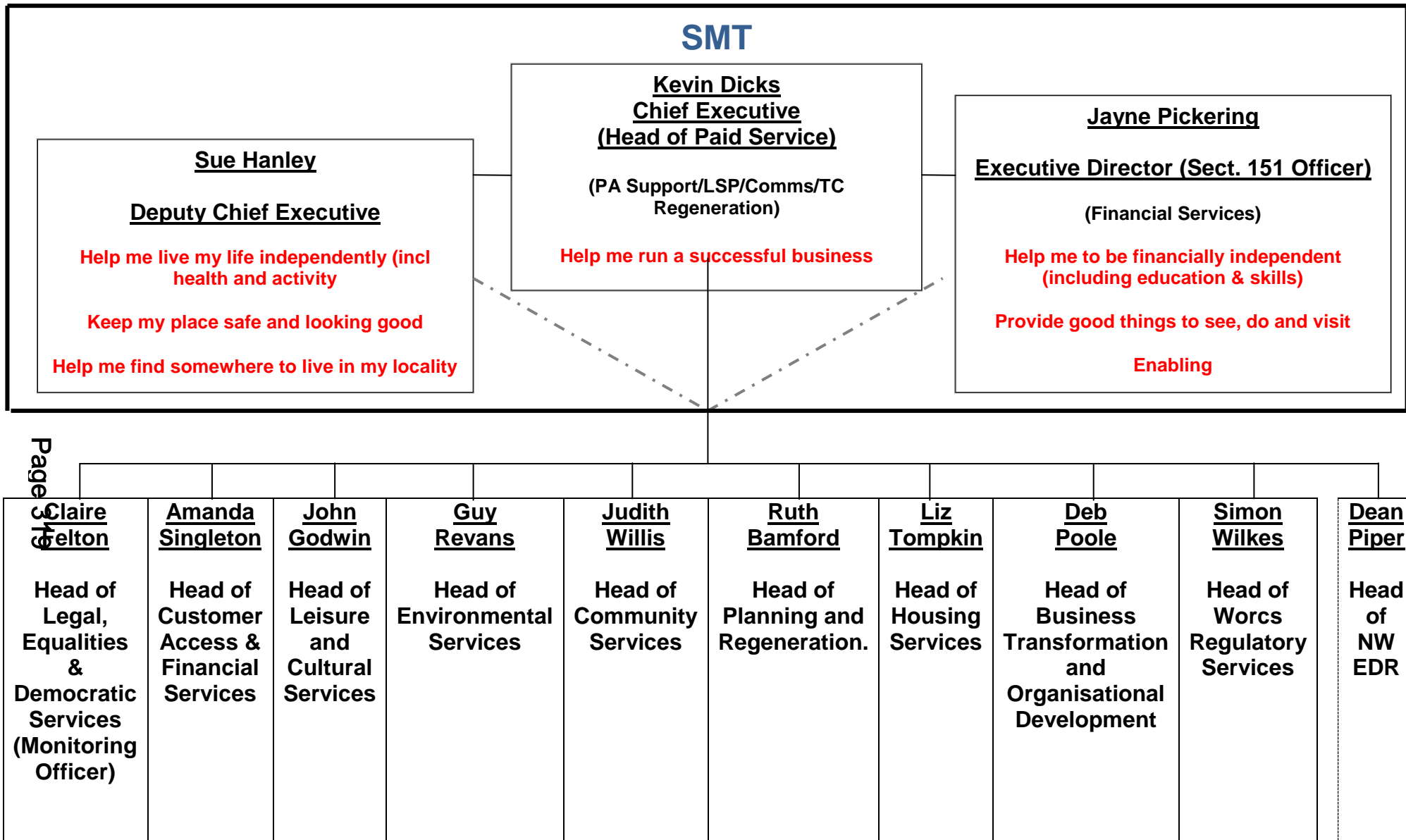
## PART 17

- (a) interview all qualified applicants for the post, or
  - (b) select a short list of such qualified applicants and interview those included on the short list.
- (2) Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with rule15(b).
23. The steps under rule 21 or 22 above may be taken by a committee, sub-committee or chief officer of the Council;
24. Any chief officer may be appointed by the Council, a committee or sub-committee of the authority or a relevant joint committee.
25. Where the duties of a chief officer include the discharge of functions of two or more local authorities under section 101(5) of the Local Government Act 1972
- (a) the steps under rule 21 or 22 above may be taken by a joint committee of those authorities, a sub-committee of that committee or a chief officer of any of the authorities concerned; and
  - (b) any chief officer may be appointed by such a joint committee, a sub-committee of that committee or sub-committee of any of those authorities.

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# Bromsgrove District Council and Redditch Borough Council - Single Management Structure



**Nb** – although Executive Directors are not directly responsible for the line management of HofS, they are directly responsible for leading and driving achievement of **Strategic Purposes** and will be expected to co-ordinate activity to enable this.

**Kevin Dicks,  
Chief Executive**

- LSP & Other Strategic Partnerships
- Communications, Marketing and Promotion (including oversight of web content)
- Printing & Reprographics
- Civic/Mayoral Support
- Corporate Administration/ Central Post Opening
- Town Centre Regeneration

**Deb Poole  
Head of Business  
Transformation and  
Organisational Development**

- I.C.T.
- Business Development
- E Government
- Web Development
- Land and Property Gazetteer / GIS / Street Naming and Numbering
- Transformation, Business Process Re-engineering and Lean Systems
- Information Management
- Freedom of Information, Data Protection, Records Management
- Organisational Development (including Workforce Planning and Succession Planning)
- Training & Development (strategy)
- Performance Management & Improvement
- Policy (excluding service specific strategy)
- Consultation & Community Engagement
- Customer Insight
- Human Resources
- Training & Organisational Development
- Health & Safety

**Simon Wilkes  
Head of Regulatory  
Services**

- Health & safety
- Food Safety
- Food Standards
- Licenses (all)
- Pest & Dog Control
- Animal Health and Welfare
- Contaminated land
- Fair Trading
- Consumer and Business Advice
- Air Quality
- Metrology
- Product Safety
- Rogue Trading and Counterfeiting
- Underage Sales
- Statutory Nuisances
- Infectious Diseases

**Dean Piper  
Head of NW EDR**

**Claire Felton  
Head of Legal, Equalities &  
Democratic Services**

- Professional Legal Advice & Services
- Election & Electoral Services, Periodic Electoral Review
- Democratic Services & Member Support
- Monitoring Officer Role, Probity & Standards
- Governance
- Advice to Parishes
- Member Development
- Equalities & Diversity
- Land Charges

**Sam Morgan  
Financial Services Manager  
(reports direct to Jayne  
Pickering)**

- Accounts & Financial Management & Advice
- Procurement
- Audit
- Risk Management
- Payroll (RBC, BDC, WFDC)

**John Godwin  
Head of Leisure and  
Cultural Services**

- Leisure/Sports Centres/Dual Use Facilities
- Sports and Recreation Development
- Arts Development
- Children & Young People, Play
- Health Education/Interventions
- Parks and Open Spaces
- Allotments
- Museum
- Events
- Community Centres
- Theatre
- Countryside Centre
- Sponsorship

**Amanda Singleton  
Head of  
Customer Access &  
Financial Support**

- Customer Service Centres and One Stop Shops
- Revenues including corporate Income & Debt Management
- Benefits
- Complaints and Customer Feedback
- Customer Service Strategy
- Cashiers
- Reception Services
- Switchboard Services
- Assets & Facilities Management (RBC)
- Property

**Guy Revans  
Head of Environmental  
Services**

- Waste Management
- Street Scene / Street Cleansing
- Grounds Maintenance/ Landscaping
- Bereavement Services
- Climate Change / Energy Efficiency
- Public Conveniences
- Cesspools/Sewers
- Engineering and Design
- Minor Works Team
- Abandoned Vehicles
- Street Naming and Numbering (operational)
- Tree management inc TPOs
- Land Drainage
- Car Parks/Civil Parking Enforcement

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**Judith Willis  
Head of Community  
Services**

- Community Cohesion (Older and Young People) / Social Inclusion
- Community Safety
- Anti Social Behaviour Team
- CCTV & Lifeline Operation & Development
- Voluntary Sector & Community Networks, Grant Aid
- Transport
- Community Transport / Dial A Ride
- Bus Passes / Concessionary Fares
- Grant Aid
- Housing Strategy and Enabling
- Private Sector Housing
- Disabled Facilities Grants
- Travellers
- Shopmobility
- Children's Centres

**Ruth Bamford  
Head of Planning and  
Regeneration**

- Strategic Planning (Planning & Local Development Framework)
- Development Management (including Planning Enforcement)
- Building Control
- Land Charges
- Emergency Planning / Business Continuity
- Conservation
- Economic Development

**Liz Tompkin  
Head of Housing**

- Capital Improvements
- Repairs & Maintenance
- Homelessness
- Housing Options/Choice Based Lettings
- Housing Performance and Database
- Right to Buy
- St David's House Extra Care Housing
- Tenancy Management



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**SCHEME OF MEMBERS' ALLOWANCES 2016/17**

The Council's Scheme of Members' Allowances was reviewed at the meeting of the Council held on 24th February 2016 following recommendations made by the Independent Remuneration Panel for Worcestershire District Councils. It is the Council's intention that the Scheme should be reviewed annually.

The scheme for the financial year 2016/17 includes the following:-

**Basic Allowance and Special Responsibility Allowance**

- (a) A Basic Allowance payable to all Members of the Council of £4,326, which includes a payment for communications costs.
- (b) Special Responsibility Allowances to be paid to the holders of the following Offices, in addition to the Basic Allowance referred to above:

<b>Position</b>	<b>Multiplier of Basic Allowance</b>	<b>Special Responsibility Allowance</b>
Leader of the Council	3.0	£12,978
Deputy Leader (including SRA as a Portfolio Holder)	2.0	£8,653
Executive Members (Cabinet Portfolio Holders)	1.3	£5,624
Chairman of Overview and Scrutiny Board	1.3	£5,624
Chairman of Planning Committee	1.3	£5,624
Chairman of Licensing Committee	0.3	£1,298
Chairman of Audit, Standards and Governance Committee	0.25	£1,082
Chairmen of Overview and Scrutiny Task Groups	0.25	£1,082 (paid pro rata for the length of the task group)
Chairman of Appointments Committee	0.03	£130 per meeting

Chairman of Electoral Matters Committee	0.03	£130 per meeting
Chairman of Appeals Committee	0.03	£130 per meeting
Chairman of Standards Sub-Committee <i>(excluding the Chairman of the parent Committee)</i>	0.03	£130 per meeting
Leader of the largest opposition political party elected at the ballot box	0.25	£1,082
Leader of other political group (not applicable to the Leader of the Council or the Leader of the largest opposition party) min of 4 members	0.25	£1,082

There is no limit on the number of Special Responsibility Allowances payable to any one Member, except where identified above for leaders of political groups

Where Special Responsibility Allowance is payable to a Chairman on an annual basis there are no formal arrangements for payment of Special Responsibility Allowance to a Vice-Chairman for chairing a committee meeting in the absence of the Chairman. Any such payments shall be determined on an informal basis. Where Special Responsibility Allowance is payable per meeting, this will be payable to the person chairing that meeting.

In addition to the allowances set out above, an allowance of £4110 is payable to the Chairman of the Council. This allowance is permitted in the Local Government Act 1972 and is separate to those which are reviewed by the Independent Remuneration Panel.

### Childcare and Dependant Care Allowances

Childcare and dependant care allowances are payable to cover reasonable and legitimate costs incurred as a result of attendance at Approved Duties, **as defined in Appendix 1**. Evidence of costs incurred should be submitted with any claim.

### Travelling and Subsistence Allowances

- (a) Travelling and subsistence allowances are payable for attendance at Approved Duties, **as defined in Appendix 1**.
- (b) Travelling expenses are paid in accordance with the approved HM Revenue and Customs mileage allowance rate which is currently 45p per mile, irrespective of vehicle engine capacity, subject to the production of valid VAT receipts for fuel purchased.



# Agenda Item 19

- (c) Councillors may claim actual expenditure incurred on tolls or parking fees, in addition to travelling allowances. Proof of expenditure must be provided.
- (d) The rate for travel by Taxi Cab shall not exceed:
  - (i) In cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity paid, and
  - (ii) In any other case, the amount of the fare for travel by appropriate public transport.
- (e) Claims for travel by public transport must not exceed the ordinary standard class fare (or any available cheap fare as incurred).
- (f) If you are using your private vehicle for attendance at Council meetings, Committees, etc you should advise your insurance company and ensure that you have the necessary cover in place for such business journeys.
- (g) A cycling allowance may be paid at the same mileage rate as for vehicles.
- (h) Subsistence allowances are paid for duties over 4 hours where no refreshments have been provided. Members are reimbursed for actual expenses incurred up to the following maximum amounts, subject to the production of receipts:-

Breakfast	£ 8.00
Lunch	£ 12.00
Evening Meal	£ 25.00
Overnight Stay (accommodation only)	
London and annual conferences	£150.00
Other	£100.00

In very exceptional circumstances, these maximum amounts may be exceeded, subject to prior approval being obtained from the Head of Financial Services in each case and the action being reported to the Overview and Scrutiny Board.

## Claims for Allowances

Members should submit claims for allowances on a monthly basis within the deadlines specified.

## Forgoing an Allowance

Any Member may elect to forgo their entitlement to all or part of their allowances if they so wish. If a Member has made this decision, he/she can change his/her mind, but not retrospectively.

## Repayment of Allowance

A Councillor will be required to repay any allowances which they have already been paid in respect of any period during which they have:

- (a) Ceased to be a Member of the Council; or
- (b) Been in any other way not entitled to receive the allowance in respect of that period.

## General Support for Councillors

In addition to the allowances set out in this scheme, Councillors are provided with I-pads to support them in carrying out their Council duties. Councillors may also claim up to £100 per year towards broadband costs; full details about this are included in the Policy for Members' IT in the constitution.

## APPROVED DUTIES

1. Attendance at meetings of the Council or any of its committees or sub-committees as a member of that body, observer, invited attendee or to address such a body
2. Attendance at meetings of the Executive Cabinet or any of its committees or sub-committees as a member of that body, observer, invited attendee or to address such a body
3. Meetings of Working Groups or Panels established by the authority, any of its committees or sub-committees or by the Leader of the Council provided that members of at least two political groups have been invited to attend
4. Any duty undertaken by the Chairman of the Council, the Vice-Chairman of the Council, the Civic Head, the Deputy Civic Head or by the Leader of the Council in that role
5. Attendance by Portfolio Holders, Committee Chairmen and Vice-Chairmen at preparation or briefing meetings for formally convened meetings of the Council.
6. Meetings of area or neighbourhood committees or forums
7. Other Bodies to which the authority makes appointments or nominations, or any committee or sub-committee of such a body
8. Meetings of any association of authorities of which the Council is a member
9. Site visits, provided these are in connection with the discharge of the functions of the authority or any of its committees or sub-committees
10. Joint meetings with other local authorities, conferences, seminars, presentations, training or induction sessions, provided these are in connection with the discharge of the functions of the authority or of any of its committees or sub-committees.
11. Any other special duties which the Council may wish to approve from time to time, provided these are in connection with the discharge of the functions of the authority or any of its committees or sub-committees

Note: Members may not claim allowances from more than one body in respect of any duty.

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**BROMSGROVE DISTRICT COUNCIL**

**CODE OF CONDUCT**

**Part 1**

**General provisions**

**Introduction and interpretation**

1. (1) This Code applies to **you** as a member or co-opted member of Bromsgrove District Council.
- (2) You should read this Code together with the Ten Principles of Public Life which are set out in Appendix 1
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—  
"meeting" means any meeting of
  - (a) the authority;
  - (b) any of the authority's, sub-committees, joint committees, joint sub-committees, or area committees;
  - (c) the executive (Cabinet) of the authority or its committees"Monitoring Officer" means the Monitoring Officer for the principal Council which is Bromsgrove District Council;

### Scope

2. (1) This Code applies to you as a member of this authority when you act in your role as a Member or as a representative of the authority in the circumstances described in para 2 (b) below.
- (2) Where you act as a representative of the authority:
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with the authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### General obligations

3. (1) You must treat others with respect.
- (2) You must not:
  - (a) do anything which may cause your authority to breach any of the equality enactments;
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be:
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that a member (including yourself) has failed to comply with the authority's Code of Conduct;
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

4. You must not:
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
    - (i) you have the consent of a person authorised to give it;
    - (ii) you are required by law to do so;
    - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is:
      - (aa) reasonable and in the public interest; and
      - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
6. You:
- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of, or under the control of, the authority:
    - (i) act in accordance with the authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity.

7. You must:
  - (a) when reaching decisions on any matter have regard to any relevant advice provided to you by the authority's officers and in particular by the authority's Monitoring Officer and Section 151 Officer; and
  - (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority
  
8. You must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

### **Part 2**

#### **Interests**

#### **Disclosable Pecuniary Interests ("DPI")**

9. (1) You will have a Disclosable Pecuniary Interest ("DPI") under this Code if:-
  - (a) such interest meets the definition prescribed by The Relevant Authorities ( Disclosable Pecuniary Interests) Regulations 2012 regulations as amended from time to time and set out in Appendix 2 to this Code; and
  - (b) it is either an interest of yourself; or it is an interest of :-
    - (i) your spouse or civil partner; or
    - (ii) a person with whom you are living as husband and wife: or
    - (iii) a person with whom you are living as if you were civil partners;

And you are aware that the other person has the interest.



### Registration of DPIs

10. (1) You must within 28 days of becoming a member of the authority or being re-elected notify the Monitoring Officer in writing of any DPI which you hold at the time notification is given
- (2) You must within 28 days of becoming aware of any new DPI, or changes to existing DPIs notify the Monitoring Officer in writing.

### Other Disclosable Interests

- 11.(1) You will have a Disclosable Interest in any matter if you are aware that you or a member of your family or person or organisation with whom you are associated have a:-
  - a pecuniary interest in the matter under discussion; or
  - b a close connection with the matter under discussion.
- (2) If you are a member of another local authority, or public body, or you have been appointed as the Council's representative on an outside body, you do not have a Disclosable Interest unless a member of the public knowing the circumstances would reasonably regard membership of the body concerned as being likely to prejudice your judgment of what is in the public interest.

### Disclosure of Interests

#### 12.(1) DPIs: formal meetings

If you are present at a meeting of the Council and you have a DPI then you must:

- a Disclose the nature and existence of the interest; and
- b Leave the meeting (including the meeting room and public gallery) and take no part in the discussion ; and
- c If the interest has not already been recorded notify the Monitoring Officer of the interest within 28 days beginning with the date of the meeting.

### (2) DPIs: informal meetings

If you have a DPI you must not participate in informal meetings or briefings and site visits and must disclose the DPI in any correspondence with the Council.

### (3) Single Member Decisions

If when participating in single member decision making you have a DPI affecting the matter being decided then you may take no steps other than asking for the matter to be decided in some other manner.

### (4) Other Disclosable Interests

If you are present at a meeting of the Council and you have an Other Disclosable Interest then you must:

- a Disclose the nature and existence of the interest; and
- b If the interest;
  - i affects your pecuniary interests or relates to the determination of a planning or regulatory matter; and
  - ii is one which a member of the public knowing the circumstances would reasonably regard as being likely to prejudice your judgment of what is in the public interest

then you must leave the meeting (including the meeting room and public gallery) and take no part in the discussion.

### (5) Dispensations

You may take part in the discussion of and vote on a matter in which you have a been granted a dispensation.

## **Sensitive Information**

13. (1) An interest will be a sensitive interest if the two following conditions apply:

# Agenda Item 20

## PART 20

- (a) That you have an interest (whether or not a DPI); and
  - (b) the nature of the interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you or a person connected to you being subject to violence or intimidation.
- (2) Where it is decided that an interest is a “sensitive interest ” it will be excluded from published versions of the register. The Monitoring Officer may state on the register that the member has an interest the details of which are excluded under this section.
- (3) Where the sensitive interest is a DPI the usual rules relating to disclosure will apply save that the member will only be required to disclose that they hold a DPI in the matter concerned.

### APPENDIX 1

#### **The Ten General Principles of Public Life**

**Selflessness** – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

**Honesty and integrity** – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

**Objectivity** – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability** – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

**Openness** – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

**Personal judgment** – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

**Respect for others** – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

**Duty to uphold the law** – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

**Stewardship** – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

**Leadership** – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

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STATUTORY INSTRUMENTS

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2012 No. 1464

LOCAL GOVERNMENT, ENGLAND

The Relevant Authorities (Disclosable Pecuniary Interests)  
Regulations 2012

<i>Made</i> - - - -	<i>6th June 2012</i>
<i>Laid before Parliament</i>	<i>8th June 2012</i>
<i>Coming into force</i> - -	<i>1st July 2012</i>

The Secretary of State, in exercise of the powers conferred by sections 30(3) and 235(2) of the Localism Act 2011(a), makes the following Regulations.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and shall come into force on 1st July 2012.

(2) In these regulations—

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

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

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(a) 2011 c.20.

(b) 2000 c. 8.

## Specified pecuniary interests

2. The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Act are the interests specified in the second column of the Schedule to these Regulations.

Signed by authority of the Secretary of State for Communities and Local Government

*Grant Shapps*  
Minister of State

6th June 2012

Department for Communities and Local Government

## SCHEDULE

Regulation 2

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of

(a) 1992 c. 52.

business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a relevant authority as defined in section 27(6) of the Localism Act 2011, on taking office and in the circumstances set out in section 31, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) of the Act sets out the circumstances in which such an interest is a disclosable interest.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.





### GIFTS AND HOSPITALITY

#### A CODE OF CONDUCT FOR COUNCILLORS

The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the authority as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.

The law on the acceptance of gifts and hospitality is set out in the Bribery Act 2010. These legal requirements are supplemented by the procedures which have been adopted by this authority, to provide a clear set of rules for the protection of both Councillors and the authority. This Code is to be read in conjunction with the Council's Code of Conduct for Members and the Council's Corporate Anti-Bribery Policy.

This Code of Conduct sets out:

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality
- (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the authority

This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by this authority.

#### **1 General Principles**

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out in Section 2, you should not accept it if to do so would be in breach of one or more of these principles:

- (a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor**

As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

The Bribery Act 2010 makes it 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.

Further, the authority's Code of Conduct for Members provides that you must act in the public interest, serving the authority and the whole community, rather than acting in the interests of any particular individual or section of the community, and that you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

**(b) You should only accept a gift or hospitality if there is a benefit to the authority**

The only proper reason for accepting any gift or hospitality is that there is a benefit for the authority which would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority expeditiously through working lunch, or to canvass the interests of the authority and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the authority is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

As set out above, the authority's code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the authority, would be a breach of the Code.

**(c) Never accept a gift or hospitality if acceptance might be open to misinterpretation**

The appearance of impropriety can be just as damaging to the authority and to you as a Councillor as actual impropriety. The authority's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the authority favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take

appropriate steps to ensure that such a misunderstanding cannot arise.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

- (i) occasions when the authority is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.
- (ii) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination.
- (iii) funding decisions, when the authority is determining a grant application by any person or organisation.

**(d) Never accept a gift or hospitality which puts you under an improper obligation**

Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the authority.

**(e) Never solicit a gift or hospitality**

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor unless the acceptance of that gift or hospitality would be permitted under this Code. You should also take care to avoid giving any indication that you might be open to such any improper offer.

## **2 Consent Regimes**

**(a) General consent provisions**

For clarity, the authority has agreed that, provided the General Principles set out in Section 1 are not breached, you may accept gifts and hospitality in the following circumstances:

- (i) civic hospitality provided by another public authority

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## PART 21

- (ii) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- (iii) tickets for sporting, cultural and entertainment events which are sponsored by the authority
- (iv) small gifts of low intrinsic value, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- (v) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the authority if you meet accidentally in a public house, cafe or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable
- (vi) a modest working lunch in the course of a meeting in the offices of a party with whom the authority has an existing business connection where this is required in order to facilitate the conduct of that business.
- (vii) modest souvenir gifts with a value from another public authority given on the occasion of a visit by or to the authority
- (viii) Hospitality received in the course of an external visit or meeting which has been duly authorised by the authority. Councillors should not make such arrangements themselves, and officers are under instruction to make it clear that any such hospitality for Councillors and officers is to be no more than commensurate with the nature of the visit
- (ix) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure: The Councillor must, as soon as practicable after the receipt of the gift, pass it to the Secretary to the Chairman of the Council together with a written statement identifying the information set out in Paragraphs 2(b) below. The Secretary will then write to the person or organisation making the gift thanking them on your behalf for the gift

and informing them that you have donated the gift to the Chairman's charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Chairman.

**(b) Special consent provisions**

If you wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 1, but is not within any of the general consents set out in Paragraph 2(a), you may only do so if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out:

- (i) the nature and your estimate of the market value of the gift or hospitality
- (ii) who the invitation or offer has been made by or on behalf of
- (iii) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the authority in which they have been involved
- (iv) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the authority
- (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the authority's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 3, below.

### 3. Reporting

Where you accept any gift or hospitality, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information set out in Paragraphs 2(b) above. A form for this purpose is attached to this Code, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the authority's accounts for the year in question.

### 4 Gifts to the authority

Gifts to the authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the authority. You should not solicit any such gift on behalf of the authority except where the authority has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the authority, you must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, whether there is a real benefit to the authority which would outweigh any disbenefits). If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the authority. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, you should consult the Monitoring Officer directly.

### 5 Definitions

- (a) "Gift or hospitality" includes:
- (i) the free gift of any goods or services.
  - (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public.
  - (iii) the opportunity to obtain any goods or services which are not available to the general public.

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## PART 21

- (iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.
- (b) References to the "value" or "cost" of any gift or hospitality are references to the higher of:
  - (i) your estimate of the cost to the person or organisation of providing the gift or consideration
  - (ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

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## PART 21



To:

## Declaration of Receipt of Gifts or Hospitality

Name	
What was the gift or hospitality?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Policy? If so, which?	
Did you get the consent of any officer before accepting it? If so, who?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact in your job with the person or organisation providing the gift or hospitality?	
Signed:	Date:

**Please return to the Democratic Services Team at Bromsgrove**

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### MEMBER - OFFICER PROTOCOL

#### Introduction and Principles

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. Its objectives are
  - To promote trust, openness, fairness and honesty by establishing some ground rules
  - To define roles so as to clarify responsibilities (i.e. who does what), avoid conflict and prevent duplication or omission
  - To secure compliance with the law, codes of conduct and the Council's own practices
  - To lay down procedures for dealing with concerns by members or officers.

Although the protocol offers guidance on some of the issues which most commonly arise, it forms part of the Council's Constitution and as such must be followed by Members and Officers. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances. Except as specifically set out in this Protocol, questions of interpretation will be determined by the Monitoring Officer unless the particular provision requiring interpretation relates to a matter to be determined by the Chief Executive.

- 1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.4 It also seeks to reflect the principles underlying the Code of Conduct which applies to Members. These are:
  - Selflessness – serving only the public interest
  - Honesty and integrity – not allowing these to be questioned
  - Not behaving improperly
  - Objectivity – taking decisions on merit
  - Accountability – to the public; being open to scrutiny
  - Openness – giving reasons for decisions
  - Personal judgement – reaching one's own conclusions and acting accordingly
  - Respect for others – promoting equality; avoiding discrimination; respecting others (member/member as well as member/officer)

- Duty to uphold the law – not acting unlawfully
- Stewardship – ensuring the prudent use of the Council's resources
- Leadership – acting in a way which has public confidence

These principles underpin this protocol. Officers are bound by the Council's own code of conduct for staff and, in some cases, by their professional associations. The purpose of this code is to enhance and maintain the integrity (real and perceived) of local government and the Code, therefore, demands very high standards of personal conduct.

- 1.5 This Protocol should be read in conjunction with the Members' Code of Local Government Conduct, the Council's Constitution and any guidance issued by the Audit, Governance and Standards and/or Monitoring Officer. The protocol has been approved by the Council's Standards Committee (now the Audit, Standards & Governance Committee), which will monitor its operation and which is responsible for reviewing the practical application of the Protocol, and making suggestions for its improvement and development. Breaches of the protocol by a member may result in a complaint to the Standards Board for England if it appears the Members' Code of Conduct has also been breached. Breaches by an officer may lead to disciplinary action.

### **The Role of Members**

- 2.1 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.
- 2.2 Collectively, Members are the ultimate policy-makers determining the core values and priorities of the Council and approving the authority's policy framework, strategic plans and budget.
- 2.3 Members represent the community, act as community leaders, and promote the social, economic and environmental well-being of the community, often in partnership with other agencies.
- 2.4 Every elected Member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local outside bodies.
- 2.5 Some Members have roles relating to their position as members of the Executive, overview and scrutiny committees, or other committees of the Council.
- 2.6 Members of the Executive may have individual delegated powers, but will often work closely with officers in relevant departments in preparing policies and decisions which are subsequently approved by the Executive. Although

Executive members may, to a significant extent, determine matters within their portfolios, the implementation of their decisions is the responsibility of officers.

- 2.7 Members serving on overview and scrutiny committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor service provision by other bodies insofar as it affects the District, e.g. local health service provision.
- 2.8 Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding planning applications, licensing applications and other quasi-judicial matters, which by law are excluded from the remit of the Executive.
- 2.9 Some Members may be appointed to represent the Council on local, regional or national bodies. Guidance for Members on their participation with external bodies is contained within the protocol "Guidance for Members on Outside Bodies".
- 2.10 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as members they have a duty always to act in the public interest.
- 2.11 Members are not authorised to instruct officers other than in the circumstances set out below, and should take care to ensure that their conduct is not open to misinterpretation in this regard. Instructions may legitimately be given:-
  - Through the formal decision-making process;
  - To request the provision of consumable resources provided by the Council for members' use
  - Where an Executive Member is indicating to a Senior Officer the way in which policies and decisions might be prepared, but any such instruction given must not compromise an officer's professional judgement and must not be inconsistent with the Council's established policies and procedures
  - Where staff have been specifically allocated to give support to a member or group of members; and
  - In the case of political assistants
- 2.12 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 2.13 Members must avoid taking actions which are unlawful, financially improper, or likely to amount to maladministration. Members have an obligation under their code of conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Chief Financial Officer.
- 2.14 Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.

### **The Role of Officers**

- 3.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.
- 3.2 Under the direction and control of the Council (including, as appropriate, the Executive and committees), officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 3.3 Officers have a duty to implement decisions of the Council, the Executive and committees which are lawful and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.
- 3.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 3.5 Officers must assist and advise all parts of the Council. They serve the Council as a whole. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- 3.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- 3.7 Officers have the right not to support Members in any role other than that of member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on senior officers' involvement in political activities.

### **The Relationship: General Points**

- 4.1 Both Councillors and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, their committees, and subcommittees.
- 4.2 At the heart of the Code, and this Protocol is the importance of mutual respect, confidence, and trust. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

- 4.3 A key element in the relationship is a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately. Informal and collaborative two-way contact between Members and officers is encouraged, but personal familiarity can damage the relationship, as might a family or business connection. Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles. Inappropriate relationships can be inferred from language/style. When attending formal meetings, officers and Members should use formal forms of address to each other – e.g. Members should be addressed as "Councillor XX" or "Chairman", while Officers should generally be addressed as "Mr. XX" or "Mrs. XX". A greater level of informality may be appropriate in other circumstances, e.g. a one to one between a Head of Service and their respective Cabinet Member but it is safer to err on the side of formality.
- 4.4 It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, an officer should not sit on a body or participate in any decision which directly affects the officer on a personal basis. Members are bound by the Code of Conduct which contains a similar restriction.
- 4.5 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 this Protocol. This is a long-standing tradition in public service because an Officer has no means of responding to such criticisms in public. If a Member feels he/she has not been treated with proper respect or, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, he/she should raise the matter with the respective senior officer. The senior officer will then look into the facts and report back to the Member. If the Member continues to feel concern, then he/she should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 4.6 An Officer shall not discuss with a Member personal matters affecting himself/herself or matters relating to the conduct or capability of another Officer or to the internal management of a Section/Division. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward member.
- 4.7 Where an Officer feels that s/he has not been properly treated with respect and courtesy by a Member, he/she should raise the matter with his/her senior officer or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the senior officer or Chief Executive will take appropriate action either by

approaching the individual Member and/or group leader or by referring the matter to the Monitoring Officer in the context of the Council's Code of Conduct.

- 4.8 With the exception of political assistants, officers work to the instructions of their senior officers, not individual Members. It follows that whilst such officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a senior officer, at least in the first instance.
- 4.9 Officers will do their best to give timely responses to Members' enquiries. However, officers should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities. Members will endeavour to give timely responses to enquiries from officers.
- 4.10 Members and officers should respect each other's free (i.e. non-Council) time.
- 4.11 Members seeking advice, information, or support from officers should as a normal rule make contact firstly with the Head of Service for the department in question, and although the Head of Service may refer the matter to another officer care should be taken to ensure that the other officer is supported in whatever manner may be required. In the event that officers receive direct contact from Members and are uncertain how to respond, they should immediately seek advice from their own Manager or Head of Paid Service. It is acceptable for a custom-and-practice arrangement to develop whereby Members approach other officers direct, but all parties should take care to ensure that the Member, the Officer, and the Head of Service are content with the arrangement.

### **The Relationship: Officer Support to Members: General Points**

- 5.1 Certain statutory officers – the Chief Executive, the Monitoring Officer and the Chief Financial Officer – have specific roles and these are addressed in the Constitution. Their roles need to be understood and respected by all Members.
- 5.2 The following key principles reflect the way in which the Council's staffing body generally relates to Members:
- all officers are employed by and accountable to the authority as a whole;
  - support from officers is needed for all the authority's functions including Full Council, Overview and Scrutiny, the Executive, individual Members representing their constituents etc;
  - the authority will seek to avoid potential conflicts of interest for officers arising from the separation of the Executive and Overview and Scrutiny role; and
  - all officers will be provided with training and development to help them support the various Member roles effectively and to understand the Council's structures.



- 5.3 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It must be recognised that it is the Officer, rather than the Member or Members, who takes the action and it is the Officer who is accountable for it.

### **The Relationship: The Council as Employer**

- 6.1 Officers are employed by the Council as a whole
- 6.2 Members' roles in employment matters are limited to
- The appointment of specified posts as defined in the Council's Officer Employment Procedure Rules and Scheme of Delegation
  - Approving human resources policies and conditions of employment; and
  - Hearing and determining appeals

Members should not act outside these roles.

- 6.3 If participating in the appointment of officers, members should
- Remember that the sole criterion is merit (other than in the case of political assistants, where political considerations may apply)
  - Never canvass support for a particular candidate
  - Not take part where one of the candidates is a close friend or relative
  - Not be influenced by personal preferences, and
  - Not favour a candidate by giving him/her information which is not available to other candidates
- 6.4 A member should not sit on an appeal hearing if the appellant is a friend, a relative or an officer with whom the Member has had a working relationship.

### **The Relationship: Officer Support to Members and Party Groups**

- 7.1 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 of the Council.
- 7.2 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.
- 7.3 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

- 7.4. Certain points, must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
- Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;
  - Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
  - similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice when the matter in question is formally considered by the relevant part of the Council.
- 7.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Council's Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers must not attend and/or give advice to such meetings and Members should not ask officers to do so.
- 7.6 Officers must respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, should not relay the content of any such discussion to another party group or to any other members. This must not prevent an officer providing feedback to other senior officers on a need-to-know basis.
- 7.7 Members must not do anything which compromises or is likely to compromise an officer's impartiality. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
- 7.8 An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each. An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting. No Member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.
- 7.9 An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf. It is recommended that a Group wishing to invite any officer to address

it must seek the approval of the relevant Corporate Director before approaching the officer.

7.10 In relation to budget proposals:

- the Executive Cabinet shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Executive Cabinet or until published in advance of Committee/Council meetings, whichever is the earlier; and
- the opposition groups shall also be entitled to confidential discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee/Council meetings, whichever is the earlier.

7.11 It must not be assumed by any party group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of the policy or strategy.

7.12 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

### **The Relationship: Officer Support: The Executive**

8.1 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups.

8.2 Executive Members will take collective decisions in accordance with the constitution and will not otherwise direct staff except in such circumstances as may be permitted by the Scheme of Delegations. Senior officers will be responsible for instructing staff to implement the Executive's decisions.

8.3 In addition to individual members of the Executive, senior officers have the right to submit papers to the Executive as a whole or to individual Executive members for consideration. Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an officer will be under a professional duty to submit a report. Similarly, a senior officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between an Executive Member and a senior officer in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

- 8.4 Senior officers and Executive members shall agree mutually convenient methods of regular contact. Before taking any formal decisions, the Executive will seek appropriate professional advice including that of the Monitoring Officer and Chief Financial Officer, and will not direct officers in the framing of recommendations.
- 8.5 Before any formal decisions with a financial implication are taken by the Executive, the Chief Financial Officer and the senior officer(s) for the service(s) concerned must be consulted. This is to ensure that those officers who are budget holders:
- are aware of the proposed decision
  - have had the opportunity to offer advice, and
  - are subsequently able properly to authorise the financial transactions needed to implement decisions.
- 8.6 An individual Executive member who is minded to write or commission a report about a matter within his/her portfolio must ensure that those other members and officers who need to know of the matter are so informed. There is a particular requirement to involve other Executive members on cross-cutting issues.
- 8.7 When making decisions, Executive members must state the reasons for those decisions. The written record of the decisions must include the reasons.
- 8.8 Where functions which are the responsibility of the Executive are delegated to Officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council, through Overview and Scrutiny Committees, 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 that the function is being carried out. Officers taking decisions under delegated powers must consider the advisability of informing the relevant Executive member(s) of their intentions in advance when the matter to which the decisions relate is likely to be sensitive or contentious, or has wider policy implications.
- 8.9 Officers will continue to work for and serve the local authority as a whole. Nevertheless, as the majority of functions will be the responsibility of the Executive, it is likely that in practice many Officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the Officers. Officers must ensure that, even when they are predominantly supporting the Executive, their political neutrality is not compromised.
- 8.10 In organising support for the Executive, there is a potential for tension between senior officers and Cabinet Members with portfolios. All Members and Officers need to be constantly aware of the possibility of such tensions arising and Officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.

### **The Relationship: Officer Support: Overview and Scrutiny**

- 9.1 Chairmen and other leading overview and scrutiny members shall maintain regular contact with the officer(s) providing the principal support to the overview and scrutiny function. In consultation with chairmen, it shall be the responsibility of those officers to ensure that those who need to know of matters being considered or for possible future consideration are so informed.
- 9.2 An overview and scrutiny committee or its chairman acting on its behalf may require officers to attend overview and scrutiny meetings. Regard must be had to the provisions of the Council's Overview and Scrutiny Procedure Rules in respect of the periods of notice which must be given about such attendance. Members should not normally expect junior officers to give evidence. All requests should be made to senior officers in the first instance.
- 9.3 It is recognised that officers required to appear before an overview and scrutiny committee may often be those who have advised the Executive or another part of the Council on the matter under investigation. In these circumstances, the officer may have a conflict of interest. Both members and officers need to consider the severity of the conflict. If deemed appropriate, research and advice may be sought from external sources.
- 9.4 Subject to 9.3 above, officers should be prepared to justify advice given to the Council, the Executive, or other committees, even when the advice was not accepted. Officers must also be prepared to justify decisions they have taken under delegated powers.
- 9.5 In giving evidence, officers must not be asked to give political views.
- 9.6 Officers should respect Members in the way in which they respond to Members' questions.
- 9.7 Members should not ask questions of officers or other witnesses in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature. It is not overview and scrutiny's role to act as a disciplinary tribunal in relation to the actions of Members or officers. Neither is it the role of officers to become involved in what would amount to disciplinary investigations on a Panel's behalf. This is the Chief Executive's function alone in relation to staff, the Monitoring Officer's and the Audit, Governance and Standards as regards the conduct of Members. This means:
- Whilst overview and scrutiny may seek to establish the facts about what occurred in the making of decisions or implementing of Council policies, their questioning should not be directed to the conduct of individuals in such a way that there is the implication of allocating criticism or blame;
  - In these circumstances, it is for the Chief Executive to institute a formal enquiry, and overview and scrutiny may ask (but not require) him/her to do so.
- 9.8 Overview and scrutiny proceedings must not be used to question the capability or competence of officers. Chairmen and Members need to make a distinction

between reviewing the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not an overview and scrutiny function.

- 9.9 Overview and scrutiny should not act as a 'court of appeal' against decisions or to pursue complaints by individuals (Councillors, Officers, or members of the public) as other procedures exist for this. Some of these are internal, e.g. the Corporate Complaints Procedure, and others are external/statutory, e.g. Commissioner for Local Administration or appeal to the Courts. That said,
- Overview and scrutiny may investigate the manner in which decisions are made
  - They can comment on the merits of a particular policy affecting individuals.
- 9.10 It would be unfair to invite someone to appear before a Panel without telling them in general terms what they will be asked, or not giving them adequate time to prepare. Overview and scrutiny Members ought to provide written questions ('Indicative Topics') beforehand, so that the answers can form the basis of the questioning and discussion. In addition, speakers ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Panel had previously indicated.

### **The Relationship: Officer Support: Regulatory Committees**

- 10.1 The appropriate senior officers will offer to arrange regular informal meetings with chairmen, vice-chairmen, and spokesmen of regulatory committees and sub-committees.
- 10.2 Senior officers have the right to present reports and give advice to regulatory committees.
- 10.3 Members of a regulatory committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct officers to act.
- 10.4 At some regulatory committee or sub-committee meetings, a resolution may be passed which authorises a named officer to take action between meetings in consultation with the chairman. In these circumstances it is the officer, not the chairman, who takes the action and is responsible for it. A chairman has no legal power to take decisions on behalf of a committee or sub-committee, neither should he/she apply inappropriate pressure on the officer.

### **Local Members and Officers**

- 11.1 To enable them to carry out their ward role effectively, Members need to be fully informed about matters affecting their ward. Senior officers must ensure that all relevant staff are aware of the requirement to keep local Members informed, thus allowing Members to contribute to the decision-making process and develop their representative role.

11.2 This requirement is particularly important:

- During the formative stages of policy development, where practicable
- In relation to significant or sensitive operational matters
- Whenever any form of public consultation exercise is undertaken, and
- During an overview and scrutiny investigation

Issues may affect a single ward but where they have a wider impact, officers should ensure that all relevant Ward Members are informed.

11.3 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the wards affected should be invited to attend the meeting as a matter of course.

11.4 If a local Member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant officer. Provided that the meeting has not been arranged on a party political basis:

- An officer may attend and
- The meeting may be held in Council-owned premises

No such meetings should be arranged or held in the immediate run-up to Council elections (i.e. from the date on which Notice of Election is issued).

11.5 Whilst support for Members' ward work is legitimate, care should be taken if staff are asked to accompany Members to ward surgeries. In such circumstances:

- The surgeries must be open to the general public, and
- Officers should not be requested to accompany Members to surgeries held in the offices or premises of political parties.

11.6 Officers must never be asked to attend ward or constituency political party meetings.

11.7 It is acknowledged that some Council staff (e.g. those providing dedicated support to Executive members) may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

11.8 In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale, and may need to seek instructions from their managers.

### **Members' Access to Information and to Council Documents**

- 12.1 This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's constitution. Regard should also be had to the provisions of the Freedom of Information Act, and the rights of Members described in this section of the protocol are supplementary to their rights as members of the public under that Act.
- 12.2 Members have the ability to ask for such information explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:
- It is in the public domain, and
  - the Data Protection Act does not prevent disclosure
- 12.3 Every member of the Executive, an overview and scrutiny committee, and/or any other committee or sub-committee, has a right to inspect documents about the business of that overview and scrutiny committee, other committee or sub-committee or the Executive. In relation to business of the Executive, by virtue of Regulation 17 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000:
- where there is a meeting (e.g. Cabinet) and there is a document which is in the possession/under the control of the Executive relating to the business to be conducted at that meeting, that document shall be available for inspection;
  - there are exceptions for exempt and confidential material and any document that contains advice provided by a political advisor or assistant.
- 12.4 A Member who is not a member of a specific overview and scrutiny committee, other committee or sub-committee, or the Executive may have access to any document of that specific part of the Council provided:
- He/she can demonstrate a reasonable need to see the documents in order to carry out his/her role as a member (the "need to know" principle), and
  - The documents do not contain "confidential" or "exempt" information as defined by law.
- 12.5 The exercise of the "need to know" principle depends upon an individual Member being able to demonstrate that he/she has the necessary 'need to know'. In this respect a Member has no right to 'a roving commission' to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the particular senior officer whose Division holds the document in question (with advice from the Head of Legal & Democratic Services). In the event of dispute, the question falls to be determined by the Head of Paid Service



- 12.6 A member should obtain advice from the Monitoring Officer and/or Head of Legal & Democratic Services in circumstances where he/she wishes to have access to documents or information:
- Where to do so is likely to be in breach of the Data Protection Act, or
  - Where the subject matter is one in which he/she has a disclosable pecuniary or other disclosable interest as defined in the Members' Code of Conduct.
- 12.7 Any Council information given to a Member must only be used by the Member for the purpose for which it was requested, i.e. in connection with the proper performance
- 12.8 Whilst the term 'Council document' is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a 'need to know' and therefore a right to inspect a document which forms part of the internal workings of another party group.
- 12.9 Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so. When requested to do so, officers will keep confidential from other Members advice requested by a Member.
- 12.10 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Head of Legal & Democratic Services.

### **Media Relations**

- 13.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, to be welcomed.
- 13.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary

of State to issue Codes of Recommended Practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as he/she thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity. The following is extracted from the Code:-

*“The period between the notice of election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority’s control. Proactive events arranged in this period should not involve members likely to be standing for election.”*

- 13.3 All formal relations with the media therefore must be conducted in accordance with the Council’s agreed procedures, with the law on local authority publicity, and with the Government’s Code of Recommended Practice on Local Authority Publicity.
- 13.4 Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They must not be used to promote a party group.
- 13.5 Officers will keep relevant Members informed of media interest in the Council’s activities, especially regarding strategic or contentious matters. Likewise officers will inform the Council’s Press Officer of issues likely to be of media interest, since that unit is often the media’s first point of contact.
- 13.6 If any Member is contacted by, or contacts the media, on an issue, he/she should
- Indicate in what capacity he/she is speaking (e.g. as Portfolio Holder, as Ward Member, on behalf of the Council, or on behalf of a party group)
  - If necessary (and always when he/she would like a press release to be issued), seek assistance from the Council’s Press Officer and/or relevant senior officer, except in relation to a statement which is party political in nature, in which case the statement should not be issued under the Council’s name
  - Consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions or pre-determining a decision)
  - Never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter

- Consider whether to consult other relevant Members
- Take particular care in what he/she says in the run up to local or national elections (i.e. from the date on which Notice of Election is issued) to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or as a political party activist

### Correspondence

- 14.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of 'silent copies' should not be employed.
- 14.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain limited circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Cabinet Member or the Leader, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise. The Chairman of the Council may initiate correspondence in his/her own name.
- 14.3 When writing in an individual capacity as a ward Member, a Member must make clear that fact.

### Access to Premises

- 15.1 Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.
- 15.2 Members have a right of access to Council land and premises to fulfil their duties. When making visits as individual Members, Members should
- Except in the case of visiting The Council House, and wherever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
  - Comply with health and safety, security and other workplace rules;
  - Not interfere with the services or activities being provided at the time of the visit.

### Use of Council Resources

- 16.1 The Council provides all Members with services such as IT,, printing and photocopying, and goods such as stationery and computer equipment, to assist them in discharging their roles as Members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

- 16.2 Members should ensure that they understand and comply with the Council's own rules about the use of such resources, particularly
- Where facilities are provided in Members' homes at the Council's expense
  - In relation to locally-agreed arrangements, e.g. payment for private photocopying; and
  - Regarding ICT security
- 16.3 Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples include:
- Business which is solely to do with a political party
  - Work in connection with a ward or constituency party political meeting
  - Electioneering
  - Work associated with an event attended by a Member in a capacity other than as a member of the Council
  - Work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council
  - Support to a Member in his her capacity as a councillor of another authority

### **Interpretation, complaints and allegations of breaches**

- 17.1 This part of the protocol should be read in conjunction with the Council's Confidential Reporting Code.
- 17.2 Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.
- 17.3 A Member who is unhappy about the actions taken by or conduct of an officer should:
- Avoid personal attacks on or abuse of the officer at all times
  - Ensure that any criticism is well-founded and constructive
  - Never make a criticism in public, and
  - Take up the concern with the officer privately.
- 17.4 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Member should raise the issue with the officer's manager or the relevant senior officer.
- 17.5 A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary procedure. Members may not themselves undertake investigations under the Council's disciplinary procedure and such investigations must be undertaken solely by the Head of Paid Service or other officer acting under his/her direction.
- 17.6 An officer who believes a Member may have acted other than in accordance with this protocol or the Members' Code of Conduct should raise his/her concerns with the Monitoring Officer, who will consider how the complaint or

allegation should be handled. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group, but more serious complaints may be referred to the Standards Board for England.

### **Conclusion**

- 18.1 Mutual understanding, openness on these sort of sensitive issues, and basic respect for each other are the greatest safeguard of the integrity of the Council, its Members and Officers.
- 18.2 This Protocol was first adopted by the Council as part of the Constitution on 5<sup>th</sup> July 2005 and revised in September 2006 and again in January 2014.
- 18.3 Copies of the Protocol are available on the Council's website as part of the Constitution.

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## **LOCAL PROTOCOL ON RELATIONS BETWEEN MEMBERS**

### **1. INTRODUCTION**

- 1.1 The Council will best serve the interests of local people if there are clear arrangements between the Members and Political Groups represented on the Council. The interests of local people will also be best served if the working relationship between Members of all Political Groups is characterized by mutual respect, informality and trust, whilst recognizing the need for healthy and constructive political debate within a vibrant democratic process. Such a relationship will mean that Members will speak to one another openly and honestly whilst political differences will be aired in an appropriate manner and not personalised.
- 1.2 This Protocol is intended to facilitate such a working relationship and to help Members to perform effectively. This Protocol gives guidance on Members' roles and on what to do on the occasions when things go wrong.
- 1.3 This Protocol must be read in the context of the Council's Constitution, the Members' Code of Conduct and the Officer-Member Protocol.
- 1.4 The Council will formally adopt this Protocol and a copy will be issued to all Members and Senior Officers.

### **2. INTERPRETATION**

- 2.1 In this Protocol "Member" includes all elected Members of the Council and all non-elected Members of any Committee (including the Audit, Standards and Governance Committee and any Overview and Scrutiny Task Group) (or any Sub-Committee) irrespective of whether or not they have any voting rights.

### **3. GUIDING PRINCIPLES**

- 3.1 In their dealings with one another, Members will:
  - (a) serve only the public interest;
  - (b) behave properly and not place themselves in situations where their honesty and integrity may be questioned;

- (c) make decisions on merit;
  - (d) be open about (and be prepared to give reasons for) their actions;
  - (e) promote equality by not discriminating against any person;
  - (f) treat each other with dignity and respect, accepting a strong presumption that everyone is acting in good faith, and show courtesy in all meetings and contacts, both formal and informal;
  - (g) uphold the law;
  - (h) seek to ensure that the Council uses its resources prudently;
  - (i) promote and support all these general principles by example, and act in a way that secures or preserves public confidence in local government; and
  - (j) respect the decisions and authority of the Chair and Vice-Chair of the Council.
- 3.2 In their dealings with one another, Members will also uphold the Members' Code of Conduct. The following provisions of the Code are particularly relevant to relations between Members:
- (a) paragraph 3(1) of the Code:  
"You must treat others with respect"
  - (b) paragraph 5 of the Code:  
"You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute."

#### **4. POLITICAL DIFFERENCES AND PERSONAL CRITICISM**

- 4.1 This Protocol is not intended to restrict or discourage legitimate, political debate. However, it is also in the interests of local people that there is a working relationship between Political Groups. That working relationship will be assisted if it is supported by a clear set of guidelines and it is these that this Protocol is intended to provide. The relationship between the Political Groups will also be supported if all Members adhere to high standards of courtesy and mutual respect in their dealings with one another.



- 4.2 As with their relations with officers in their dealings with fellow Members, it is important that robust debate of the issues at stake does not deteriorate into personal criticism of another person who holds a different point of view. Courtesy and civility must be maintained at all times.
- 4.3 Members' integrity should not be questioned in public in any media nor should they be subject to any name-calling or abuse. Questioning a fellow Member's integrity is a particularly serious matter and must never occur unless there is very clear documentary evidence to substantiate any allegation made, and even in these circumstances it will rarely be appropriate to question a Member's integrity publicly without first pursuing other established procedures which are available for the investigation of allegations of ethical misconduct. The principles contained in this paragraph must be adhered to in meetings of the Council, the Cabinet and any Committee meeting, or any other meeting at which members of the public or third parties are present. This principle must also be observed in all dealings with the press and other media which should not under any circumstances be used to undermine or personally criticize fellow Members whether or not those Members are named or identified in any press or other media article or briefing.

### **5. RELATIONSHIPS BETWEEN NEIGHBOURING WARD MEMBERS**

- 5.1 Members contacted by a constituent of a Fellow Member's ward should refer the constituent to the appropriate Ward Member unless:
- (a) the Ward Member is absent or otherwise unable to deal with the query. In such cases the Members should ensure that the matter is referred to the Ward Member as soon as possible; or
  - (b) the Ward Member has expressly consented.
- 5.2 Members should not hold surgeries or open sessions within the ward of a Fellow Member unless that Member has given prior express consent to the proposal. This provision shall not apply in the six weeks before a District Council election.

### **6. MEETINGS BETWEEN GROUP LEADERS**

- 6.1 The Leader of any Group may request a meeting with the other Group Leader(s) (or Deputy Group Leader(s) in cases where the issue relates to a complaint/concern about a Group Leader) at any reasonable time to discuss issues relating to current and/or forthcoming Council business.

The Group Leaders will use all reasonable endeavours to meet as soon as is reasonably practicable thereafter.

- 6.2 Group Leaders may invite a fellow Member to be present at these meetings. Actions agreed at these meetings will be minuted or otherwise recorded (unless the Group Leaders agree otherwise). The record of the meetings may be made by an officer appointed by the Monitoring Officer who, if not present for the whole meeting, will be invited in to record the agreed outcomes and actions.
- 6.3 These provisions may all be varied by agreement between the Group Leaders.

### **7. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

- 7.1 This is covered in the Council's Constitution in the Access to Information Procedure Rules and in the Member- Officer Protocol.
- 7.2 Members may share with other Members of the Council (but not third parties) exempt information unless expressly prohibited from doing so by the person or body providing the information, but must ensure that any recipient Member is aware that the information may not be disclosed to any party outside the Council (see paragraph 8.3 below).

### **8. WHEN THINGS GO WRONG**

- 8.1 From time to time the relationship between Members may break down or become strained. Whilst it will always be preferable to resolve matters informally through conciliation, if necessary by the Group Leaders, this is not always possible. Where this is the case, and a Member considers that another Member has acted in breach of this Protocol, the following procedure will be followed.
- 8.2 If attempts at resolving matters informally have not been successful where a Member considers that another Member has acted in breach of this Protocol, the following procedure will be followed:-
  - (a) the Member must make a written complaint to the other Member and copy that complaint to Group Leaders. This must specify all incidents that the complainant intends to raise and set out the alleged breach of this Protocol;

# Agenda Item 23

## PART 23

- (b) the Member who has been complained about shall (within 10 working days) respond in writing to the complainant and copy that response to Group Leaders;
  - (c) Group Leaders shall (within 10 working days (or as soon thereafter as is reasonably practicable)) meet to discuss the complaint. If they both consider that the complaint is unreasonable, frivolous, or vexatious, that shall be the end of the matter. If they both consider that the complaint is of a purely technical or minor nature, they may invite the Member who has been complained against to make a written apology, in a form (and within a timescale) agreed between the Group Leaders. Once that apology has been made that shall be the end of the matter unless the Member subsequently acts in a manner at variance with that apology;
  - (d) if either Group Leader considers the complaint is of a more serious nature than mentioned in the previous paragraph, or if the Member complained against fails to give the requisite apology, the Group Leaders shall agree a suitable course of action;
  - (e) both the Complainant and the Member complained about shall be advised in writing by the Group Leaders of their decision;
  - (f) a Complainant may at any time withdraw a complaint by notice in writing to the other Member and copy that notice to Group Leaders.
- 8.3 Exceptions may be made to the procedures outlined in paragraphs 7.2 above if to do otherwise would conflict with the Council's policy on "Whistle blowing" or potentially prejudice a criminal investigation (whether in progress or reasonably contemplated in the future).

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### OFFICERS' CODE OF CONDUCT

#### STANDARDS

- 1.1 The public is entitled to demand conduct of the highest possible standard, of a Local Government employee. Public confidence in their integrity **is paramount and it would be shaken if there were any** suspicion, that they could be influenced by improper motives. Under no circumstances should an employee use their authority or office for personal gain.
- 1.2 It is not enough to avoid actual impropriety. An employee should at all times avoid any occasion for suspicion to be raised or any appearance of improper conduct.
- 1.3 Where their duties demand it, employees should provide appropriate advice to Councillors and fellow employees with impartiality.
- 1.4 No employee should become personally involved in any transaction in which the Authority has a direct or indirect interest, except as an employee of the Authority.
- 1.5 The Council has an adopted Whistleblowing Policy to address situations where Staff may have concerns about something that is happening within the Council, including possible breaches of this Code of Conduct, perceived impropriety, breach of procedure or shortfall in delivery of service.

The Whistleblowing/Confidential Reporting Policy has been put in place to enable staff to bring attention to those concerns whilst at the same time ensuring they are protected from any victimisation or harassment.

#### DISCLOSURE OF INFORMATION

- 2.1 There is a general principle of open government.-The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. Under no circumstances should an employee use information gained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in some way.
- 2.2 Employees must not communicate to the public or press, the proceedings of any confidential committee meeting, etc., nor the contents of any document relating to the Authority unless required by law or expressly authorised to do so. Confidentiality of information still applies when an individual is no longer employed by the Authority.

- 2.3 Authorised information given by an employee in the course of his/her duty should be true and fair and never designed to mislead.
- 2.4 Personal information relating to individual councillors or members of the public and commercially sensitive information about other organisations should not be divulged by any employee unless required or sanctioned by the law.

### **POLITICAL NEUTRALITY**

- 3.1 Employees serve the Authority as a whole. It follows they must serve all councillors, and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected equally.
- 3.2 Where political groups seek officer guidance to a group meeting, on a particular issue, the Chief Executive should always be made aware of this request. There are no restrictions as to what level of officer can attend a political group to give advice but the Chief Executive or one of the two Corporate Directors must always be present. All political groups are entitled to the same level of information about Council matters. However, officers attending a political group meeting have a responsibility to keep confidential any discussion that takes place within that group when they are present.
- 3.3 Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in Paragraph 3.1 and 3.2.
- 3.4 The Local Government and Housing Act 1989, Part 1, contains provisions to restrict the political activity of senior employees. Local Authority employees holding politically restricted posts are disqualified from membership of any local authority, other than a parish or community council [s1(1)], from being an MP or MEP and are subject to prescribed restrictions on their political activity.

The Local Government Officers [Political Restriction] Regulations 1990 and the Local Government [Politically Restricted Posts] [No.2] Regulations 1990 covers the posts which are politically restricted. These are :

- [a] specified posts such as the Monitoring Officer. Chief Officers and their deputies are restricted without exemption or appeal;
- [b] all posts which meet the duties-related criteria for determining a “sensitive post” irrespective of remuneration level, unless the postholder appeals successfully against determination. These posts are defined as those which:

- [i] give advice on a regular basis to the employing authority, to any committee or sub-committee or another joint committee on which the authority is represented [but excluding purely factual information] or
  - [ii] speak on behalf of the authority on a regular basis to journalists and broadcasters.
- 3.6 Employees, whether or not politically restricted, must follow every lawful expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work.

## RELATIONSHIPS

### 4.1 COUNCILLORS

Employees are responsible to the Authority, through its senior managers. For some, their role is to give advice to councillors and senior managers and all are there to carry out the Authority's work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

### 4.2 THE LOCAL COMMUNITY AND SERVICE USERS

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community, as defined by the policies of the Authority.

### 4.3 CONTRACTORS

Employees should make known to their Line Manager any relationships of a business or private nature with external contractors, or potential contractors. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to their Line Manager.

### **APPOINTMENT OF STAFF AND OTHER EMPLOYMENT MATTERS**

- 5.1 Employees involved in appointments of staff should ensure that these are made on the basis of merit. 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. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.
- 5.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner etc.

### **PERSONAL INTERESTS**

- 6.1 Employees should not subordinate their duty to the Authority to their private interests or place themselves in a position where duty and private interest may conflict.
- 6.2 All employees should be clear about their contractual obligations and should disclose any personal interests [either financial or non-financial] that could actually or potentially conflict with the Authority's interests or which others may deem to affect the employee's impartiality in any matter relating to their duties. Such interests might include :
- taking outside work or giving professional advice, whether paid or unpaid, which could conflict with or have an impact on the Authority's work or interests;
  - involvement with an organisation receiving grant-aid from the Authority;
  - membership of a National Health Service Trust Board;
  - involvement in any organisation or pressure group which may seek to influence the Authority's policies;
  - any pecuniary interest [whether direct or indirect] in contracts let by the Authority.
- 6.3 The Authority will not preclude employees from undertaking additional employment providing that it does not, in the view of the Authority, conflict with or react detrimentally to the Authority's interests or in any way weaken public confidence in the conduct of the Authority's business.



- 6.4 Employees on Spinal Column Point 29 and above, who wish to take outside work or give professional advice, whether paid or unpaid, in addition to their full-time employment with the Authority, must obtain the written approval of their Line Manager. A record of such work or advice should be kept in the Employee's Interests Register relating to outside work / advice provision.
- 6.5 Whilst part-time employees and those on Spinal Column Point 28 and below do not need to obtain the approval of their Line Manager, they should, nonetheless, declare any other work they undertake, whether paid or unpaid, outside their employment with the Authority and record it in the Employee's Interests Register.
- 6.6 Employees should declare to their Line Manager or Director, membership of any organisation which is not open to members of the public who are not members of that organisation and requires members to make a commitment of allegiance and secrecy about the rules, membership or conduct of the organisation.

### **INTELLECTUAL PROPERTY**

- 7.1 All inventions, creative writings and drawings created by an employee in the course of their normal duties or duties specifically assigned to them are the property of the authority.

### **EQUALITY ISSUES**

- 8.1 All employees should ensure that policies relating to equality issues, as agreed by the Authority in its Equal Opportunities Policy, are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

### **SEPARATION OF ROLES DURING TENDERING**

- 9.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Authority. Senior employees, who have both a client and contractor responsibility, must be aware of the need for accountability and openness.
- 9.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 9.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

- 9.4 Employees contemplating a management buy-out should, as soon as they have formed a definite intent, inform their Line Manager and withdraw from the contract awarding process.
- 9.5 Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates, in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

### **BRIBERY AND CORRUPTION**

- 10.1 Employees must be aware that it is a serious criminal offence for them to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity.

**It is also a criminal offence to use a third party as a conduit to channel bribes to others.**

- 10.2 **The Council has an Anti-Bribery Policy, which must be read in conjunction with this Code of Conduct.**
- 10.3 Where it is proved that a gift or other consideration has been received by, paid to or given to an employee by a person holding or seeking to obtain a contract from the Authority, then the gift or other consideration shall be deemed to have given and received **in** breach of provisions of the Bribery Act, unless the contrary is proved.
- 10.4 The law relating to the acceptance of inducements or rewards is set out in the Bribery Act 2010
- 10.5 An employee's spouse's interests count as those of the employee [if he/she is living with the employee] but a partner's, son's or daughter's interests do not.

### **USE OF FINANCIAL RESOURCES**

- 11.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge of the Authority.

### **HOSPITALITY AND GIFTS**

- 12.1 When offered any form of hospitality or gift, employees must be aware of the possibility of such actions affecting or being seen to affect their judgment when official dealings with the donor or potential donor takes

place **and the potential risk of falling foul of the Anti-Bribery Policy**. Employees must ensure that any hospitality or gift is not of a level or amount which would lead to any reasonable person to believe that the employee might be influenced.

- 12.2 Employees should only consider acceptance of any offer of hospitality or a gift where the employee regards it as normal and reasonable. “Normal and reasonable” is defined for this purpose as no more than the Authority would be prepared to offer in the equivalent circumstances. Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Authority in the community.

When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Authority may be taking affecting those providing the hospitality.

- 12.3 Examples of hospitality which would be considered reasonable are :-

- i. Up to three working meals;
- ii. One non-working meal;
- iii. Attending a professional function as a member of a profession;
- iv. Attending purely social or sporting functions only when these are part of the life of the community or where the Authority should be seen to be represented and they should be properly authorised and recorded.
- v. Attendance at conferences and courses where the hospitality is clearly of a corporate nature, where authority in advance has been obtained, and where no purchasing decisions are compromised.

- 12.4 When hospitality has to be declined, those making the offer should be courteously but firmly informed of the official code of conduct operating within the Authority.

Where visits to inspect equipment, etc. are required, employees should ensure that the Authority meets the costs of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

- 12.5 Gifts and favours should not be accepted, other than items of very small intrinsic value and then only if it bears the Company’s name or insignia and can thus be regarded as being in the nature of advertising matter. All offers of personal favours such as specially discounted goods or buying at trade prices must be rejected unless the offer is open to all staff employed by the Authority. Gifts considered

reasonable would be, for example, pens, notepads, calendars and diaries.

- 12.6 If when making personal purchases, a Council contractor is identified as the best source of supply, then employees must ensure that a priced V.A.T. invoice is raised and that a receipt is issued by the contractor as proof of payment.
- 12.7 If any doubt remains in the employee's mind as to whether an offer of hospitality or a gift is acceptable, the matter should be discussed immediately with their Line Manager for guidance on whether the offer is normal and reasonable.

In reaching a decision, the following will be taken into consideration:

- The value and nature of the offer
- Could you explain the gifts/hospitality to somebody else?
- Is it socially acceptable and not lavish or extravagant?
- Does it feel right?
- Will you be influenced by this gift/hospitality?
- How would others perceive it?
- Would they perceive that you might be influenced by such gifts/hospitality?
- Could you reciprocate that which is being offered? If the answer is no, then there is a risk that this could be interpreted as an attempt to influence.

- 12.8 All gifts and hospitality offered, whether accepted or not, must be entered in the Employees' Interests Register. The Register is kept by the Democratic Services Team.

### **SPONSORSHIP - GIVING AND RECEIVING**

- 13.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a Local Government activity whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 13.2 Where the Authority 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 Line Manager of any such interest. Similarly, where the Authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

### **EMPLOYEES' INTERESTS REGISTER**

- 14.1 The Employees Interests Register will be maintained by the Democratic Services Team.
- 14.2 Officers are expected to make suitable entries in the Interests Register in respect of the following :-
- i. All gifts/hospitality or inducements offered to them, whether accepted or not - see 6.2;
  - ii. Involvement with any organisation of the type described in 6.2;
  - iii. Any pecuniary interest [whether direct or indirect] in contracts led by the Authority;
  - iv. Any outside employment taken or professional advice offered, paid or unpaid, undertaken by an officer - see 6.4 and 6.5;
  - v. Membership of an organisation, as described in 6.6.
- 14.3 Failure to fully register any of the matters outlined above may result in disciplinary action.

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# Agenda Item 24

## Bromsgrove District and Redditch Borough Councils

### Declaration of Receipt of Gifts or Hospitality made in accordance with Section 12.1-12.8 of the Officer Code of Conduct

Name and Department	
What was the gift or hospitality offered?	
Who provided it?	
When and where was the offer made?	
Does it come within one of the general consents set out in the Officers Code of Conduct? If so, which?	
Did you accept the gift or hospitality?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact in your job with the person or organisation providing the gift or hospitality?	
Signed:	Date:

**Please return to the Democratic Services Team**

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## Bromsgrove District Council Redditch Borough Council Code Of Conduct – Declaration Of Interest by Officers

**Full Name:**

**Post Title:**

I wish to declare the following interests that conflict with my duties as an Officer of Bromsgrove District Council/Redditch Borough Council and agree not to take part in any Council matters of either Council affected by this interest.

**Nature Of Interest:**

Signed.....

Dated.....



Please hand this form to your Head of Service in the first instance. It will be kept in a register maintained by the Democratic Services Team.

This form should be used to record the following as set out in the Officers' Code of Conduct:

- Involvement with any organisation described on 6.2 of the Code;
- Any pecuniary interest, whether direct or indirect, in contracts led by the Authority;
- Any outside employment taken or professional advice offered, paid or unpaid, undertaken by an officer – 6.4 and 6.5 of the Code;
- Membership of an organisation as described in 6.6 of the Code.

All gifts/hospitality should be recorded on a separate form in accordance with the Code of Conduct and Corporate Anti-Bribery Policy.

The Officers Code of Conduct can be viewed on the website and the Orb under the Constitution. The Policy is also on the ORB under HR Policies.

## **Part 25: Planning Code of Practice and Protocol on Pre-Application Involvement by Members**

This part of the constitution is currently in the process of being reviewed.

Under Review

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## Part 26: Code of Practice – Licensing Services

This part of the constitution is currently in the process of being reviewed.

Under Review

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# **Policy Document**

## **Members' ICT Facilities**

## Contents

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## 1 Policy Statement

Bromsgrove District Council Members require access to information that enables them to perform their duties as a councillor. Much of this information can be provided electronically via email, word processing and spread sheet files. The Council's general presumption is for electronic provision of information / transaction of business.

## 2 Purpose

The purpose of this policy is to ensure that Bromsgrove District Councillors can access Information and Communication Technology (ICT) facilities whilst maintaining compliance with Central Government's Public Service Network (PSN) and other related policies.

The Council holds large amounts of personal and restricted information. Information security is very important to help protect the interests and confidentiality of the Council and its customers. Information security cannot be achieved by technical means alone. Information security must also be enforced and applied by the people who use it and those who provide support for it.

## 3 Scope

This policy applies to any Councillor that requires access to Council information systems such as email or other documents, whether it is a temporary or permanent arrangement.

## 4 Definition

The Council understands that to reduce the risk of theft, fraud or inappropriate use of its information systems, anyone that is given access to Council information systems **must**:

- Be suitable for their roles.
- Fully understand their responsibilities for ensuring the security of the information.
- Only have access to the information they need.
- Request that this access be removed as soon as it is no longer required.
- Complete Data Protection training to ensure Members are clear on how information can be used when they are working on behalf of the council and when they are working on behalf of constituents, and how it should be stored.
- Ensure that no personal information that could be in breach of the Data Protection Act, is stored on their laptop or other unencrypted device.

This policy must therefore be applied prior, during and after any user's access to information or information systems used to deliver Council business.

Access to Council information systems will not be permitted until the requirements of this policy have been met.

## **5 Provision for ICT equipment.**

The Council recognises that individual Councillors have a requirement to access electronic information.

Due to a zero tolerance approach to the PSN code of connection, this has led to implementing innovative methods of accessing ICT, whilst remaining within the budget and work with the resource limitations of the Authority. Should the limits of the budget be reached, the Leader of the Council will revisit current ICT needs for the future.

The Authority will provide an Apple iPad that is technically secure, to enable the Councillor to access corporate email, corporate calendars, Modern.Gov, Office suite and necessary documents. Additional security may be added at a future date to keep in line with new PSN policy requirements.

Broadband services are to be provided by the Councillor and expenses for these claimed through the normal expenditure claim process at £100 per year (maximum 1 per household).

Support for this Apple iPad will be provided by the authority's ICT department by telephoning 01527 881766 Mon-Fri 8:30 to 17:00.

All internet usage and emails sent and received via the corporate device, may be subject to automated scanning, monitoring and filtering to assist with ICT security and adherence to additional policies as described in section 9.

It is the Councillor's responsibility to ensure their password for accessing any Corporate Information service is not shared with any other person and that connection to such services is ended by logging off the system, as soon as work is completed or the connection is left unattended. This is to prevent unauthorised access to information.

If it suspected that someone else may know their password, or any security problem has occurred, Councillors must report this to the helpdesk immediately so it can be rectified.

The Councillor shall make reasonable arrangements for the safe-keeping of the iPad.

Insurance for the iPad is provided by the council but a £100 excess is payable for loss, theft or damage.

Ensure that an Apple iPad which is in need of repair is brought to the Council's ICT Section or for the appropriate work to be done.

The Council provides the Apple iPad together with ancillary equipment and materials required, for the Councillor's functions as a Councillor. Use of this equipment for any other reason, including personal use or use by anyone other than a Councillor is not permitted.

All ICT equipment provided by the authority remains the property of the Council and must be returned at the end of the election term.

## 6 Policy Compliance

If any Member is found to have breached this policy, IT provision will be withdrawn. If a criminal offence is considered to have been committed further action may be taken to assist in the prosecution of the offender(s).

If you do not understand the implications of this policy or how it may apply to you, please seek advice from Members' Services or ICT.

## 7 Policy Governance

The following table identifies who within the council is Accountable, Responsible, Informed or Consulted with regards to this policy. The following definitions apply:

- **Responsible** – the person(s) responsible for developing and implementing the policy.
- **Accountable** – the person who has ultimate accountability and authority for the policy.
- **Consulted** – the person(s) or groups to be consulted prior to final policy implementation or amendment.
- **Informed** – the person(s) or groups to be informed after policy implementation or amendment.

<b>Responsible</b>	ICT Transformation Manager
<b>Accountable</b>	Head of Business Transformation
<b>Consulted</b>	Corporate Management Team, Members' Services
<b>Informed</b>	All Councillors.

## 8 Review and Revision

This policy will be reviewed as it is deemed appropriate, but no less frequently than every 12 months.

Policy review will be undertaken by the ICT Manager.

## 9 References

The following Bromsgrove District Council policy documents are directly relevant to this policy.

- Central Government's PSN Policy
- Information Security Policy.

- Information Protection Policy.
- Information Security Incident Policy.
- Members' Code of Conduct and related Codes and Protocols.

## Receipt and acceptance statement

I, Councillor \_\_\_\_\_ agree to comply with the policy items as stated within this document.

Signed \_\_\_\_\_ Date \_\_\_\_\_

PLEASE RETURN COMPLETED STATEMENT AS SOON AS POSSIBLE TO :

Democractic Services  
Bromsgrove District Council  
Council House  
Burcot Lane  
Bromsgrove B60 1AA

Tel: 01527 881248

## **PROCEDURES FOR AUDITING OF THE COUNCIL**

1. Local Authorities are subject to both internal and external audit.
  
- 2. Internal Audit**
  - 2.1 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 and shall secure that one of their officers has responsibility for the administration of those affairs”.
  - 2.2 Regulation 6 of the Accounts and Audit Regulations 2006 more specifically requires that "a relevant body shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control”.
  - 2.3 Internal audit can be defined as an “independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes”.
  - 2.4 In 2010 the Council agreed to enter into arrangements with Malvern Hills District Council, Redditch Borough Council, Worcester City Council and Wychavon District Council for the authorities to collaborate and provide one shared Internal Audit Service for all the authorities. The service is hosted by Worcester City Council and is regulated by a formal agreement. The shared service is known as Worcestershire Internal Audit Shared Service. The Council retains a team of auditors based at Bromsgrove who are managed centrally by the Service Manager of the shared service.
  - 2.5 Under the current arrangements the Service Manager for Worcestershire Internal Audit Shared Service reports direct to the Council’s Section 151 Officer, the Executive Director (Finance & Corporate Resources). However, the Service Manager can also report direct to the Chief Executive, if required.
  
- 3. External Audit**
  - 3.1 The Audit Commission is a government body, which has the right to approve and select providers of the external audit function. Government

legislation (Audit Commission Act 1998) refers to accounts and audit, and section 2 states that all accounts:

- shall be made up each year to 31st March or such other date as the Secretary of State may generally or in any special case direct; and
- shall be audited in accordance with this Act by an auditor or auditors appointed by the Commission.

3.2 Section 4 of the Act (Code of audit practice) details that:

3.3 The Commission shall prepare, and keep under review, a code of audit practice prescribing the way in which auditors are to carry out their functions under this Act.

3.4 Section 5 of the Act (General duties of auditors) states that:

3.5 In auditing accounts required to be audited in accordance with this Act, an auditor shall by examination of the accounts and otherwise satisfy himself:

- that they are prepared in accordance with regulations under section 27;
- that they comply with the requirements of all other statutory provisions applicable to the accounts;
- that proper practices have been observed in the compilation of the accounts;
- that the body whose accounts are being audited has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources; and
- that that body, if required to publish information in pursuance of a direction under section 44 (performance information), has made such arrangements for collecting and recording the information and for publishing it as are required for the performance of its duties under that section.

3.6 The auditor shall comply with the code of audit practice applicable to the accounts being audited as that code is for the time being in force.

3.7 The auditor shall consider whether, in the public interest, he should make a report on any matter coming to his notice. An audit management letter summarising the outcome of the annual audit is submitted to the Council for consideration.

# Agenda Item 28

## PART 28

- 3.8 The Council's external auditors are appointed by the Audit Commission. Information and contact details regarding the Council's current external auditors can be obtained from Financial Services.

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**PROTOCOL ON MEMBER REPRESENTATION ON  
OUTSIDE BODIES**

**1. Introduction – Two Categories of Organisation**

1.1. As Members will be aware, the Council appoints or nominates Members to sit on a wide range of outside bodies and organisations. These appointments broadly fall into two categories:

(a) those where the Councillor is appointed to represent the views of this Authority and to speak on our behalf

e.g. The Local Government Association  
Joint Local Authority Committees

(b) those where he/she is appointed because they are a Councillor but once appointed, their duty is as a member of that outside organisation rather than as a representative of the Council

e.g. The Artrix

1.2 As a general rule, an appointment is likely fall into the second of the above categories if the organisation concerned is a distinct legal entity (i.e. if it can sue and be sued in its own name). Such an entity can take many forms e.g.

- Company
- Industrial & Provident Society
- Public Authority

This second category would also include charitable trusts

**2. Category (a) – the Representative Role**

2.1 Very little needs to be said about appointments to bodies within category (a). The Councillor is there to represent the views of the District Council, to speak up for the Council's interests, and those of the District as a whole.

2.2 As a general rule, it is unlikely that Councillors will be at risk of personal liability as a result of being appointed to any of the category (a) organisations. The nature of those organisations is not such as to be likely to give rise to additional liabilities.

2.3 However, Councillors should bear in mind to take care how they approach conflicts of interest and declarations of those interests, and if in doubt to seek guidance.

### 3. Category (b) – The Director/Trustee/Board Member role

3.1 It is the appointment of Councillors to positions within Category (b) organisations which potentially cause most difficulty. The most important point to bear in mind is that although the Council makes the initial nomination/appointment, after appointment the Councillor holds office according to the constitution of that other organisation. Appendix A sets out some further guidance notes for Members acting as Directors. In practice, various issues arise of which the following are the most common:

#### 3.1.1 Period of appointment and removal

- a) Once appointed, the Council can only remove a person from office if the constitution of the particular organisation gives the Council that power. The situation differs from organisation to organisation and it is therefore necessary for the Councillor to check the particular constitution, (or articles of association of a company, etc) of the organisation concerned.

#### 3.1.2 To whom is the Councillor Responsible?

- a) In the case of category (b) organisations, once a Councillor accepts an appointment as a director, board member, trustee etc of that organisation then they take on all the responsibilities of that position and their duty *when acting as a director or trustee etc* is to that organisation, not to the Council. They must act in accordance with what they consider to be the best interests of that organisation and are not there as a representative on behalf of the Council.
- b) It would, for example, be a breach of their duty to an outside organisation to disclose confidential information about that organisation to the Council, even if it were relevant to something that the Council was discussing. This point about confidentiality applies both ways and it would be equally wrong to disclose confidential information belonging to the Council to an outside body.
- c) The duty towards the outside organisation only applies when the Councillor is acting in their capacity as a director/trustee/board member of that organisation. When at Council meetings or acting in a Councillor role, he/she must act in the best interests of the Council (subject to the above point about confidentiality). It is therefore very important that Members have a clear understanding of “which hat they are wearing” at any time.
- d) It may often be the case that a Councillor has been appointed to an outside body because he/she has a particular interest in the subject matter e.g. housing. In those circumstances it would not be unusual if the Councillor’s own views and those of the particular organisation

were closely aligned. Alternatively, a Councillor may have gained particular knowledge about a subject because of their involvement on another body. It is perfectly proper that the Councillor should express those views/use that special knowledge during Council debates *because they are his/her own views*. However, a Councillor should never be seen to use their position on the Council to act as an advocate on behalf of an outside organisation during Council debates, because that would be putting the other organisations interests ahead of the Council's. This applies regardless of whether or not they were appointed by the Council.

### 3.1.3 Conflicts of Interest

- a) Where a director, trustee or member of an outside body has a conflict of interest because they are also a Councillor, then that interest must always be disclosed at any meeting of that outside organisation (this also applies where the person has an interest because of their personal circumstances). Whether or not he/she should continue to participate in that meeting will depend on the rules of that organisation: as a general guide, if there are no rules or procedures specified then he/she should abide by the same rules as apply at Council meetings.
- b) Where a matter under discussion at a Council meeting concerns another local authority or an outside organisation to which a Councillor has been appointed as the Council's representative, the Council's Code of Conduct says that this does not have to be declared as a *Disclosable* interest unless a Member of the Public, knowing the circumstances, would reasonably regard membership of the body concerned as being likely to prejudice the Councillor's judgment of what is in the public interest.

However, there may be circumstances where the conflict of interest would be so great as to make it impossible for the person to act both as a Councillor and a member of the other organisation – for example, in the case of negotiations involving confidential information on both sides. In that situation the person should declare an interest and take no part in the matter in one or other forum i.e. decide whether to act as a Councillor or as a director/trustee in relation to the particular matter but not both. Equally, it could never be right for a Councillor to participate in the determination of a planning application made by an outside organisation of which s/he was a director or board member, even though nominated by the Council.

- c) This advice in relation to potential conflicts of interest applies to both category (a) and (b) organisations.

## 3.2 Personal Liability

3.2.1 A Councillor who accepts appointment to a Category (b) outside body takes on a responsibility to act in accordance with the particular obligations and requirements applicable to that type of organisation, and so should ensure that they are fully understood. The Council's Legal Section will provide general guidance on these matters, but the outside organisation itself (or their advisors) is likely to be better placed to advise on the specific issues concerning that organisation. Appendix A contains some notes exploring the rights, duties and responsibilities of company directors.

3.2.2 Assuming that Councillor nominees to outside organisations understand and comply with the relevant legal obligations applicable to that type of organisation, Councillors are unlikely to incur personal liability as a result of their appointment.

3.2.3 In order to guard against personal liability, Councillors should:

- Make sure they understand the obligations and responsibilities they have taken on (see above);
- Ensure that the organisation concerned is properly advised and managed;
- Ensure that the organisation has appropriate insurance cover, including Directors' Liability insurance;
- Make sure that the legal framework of the organisation is appropriate to the activities that it conducts e.g. it would be inadvisable for bare trustees to be undertaking significant trading activities;
- Be diligent – attend Board meetings and make sure they know what is happening, and do not assume that legal formalities are being attended to by other people.

## 3.3 Indemnity

3.3.1 The question is sometimes raised as to whether the Council should indemnify Councillors against any personal liability as a result of being appointed as a member of an outside organisation. Whilst it is theoretically possible to give an indemnity to Councillors who are acting on the Council's behalf, the law is not ideally clear and a blanket approach is not appropriate

- a) In the majority of instances, the Council's involvement ends once the nomination has been made. Although appointed by the Council, the Councillor is not acting as the Council's representative because the Councillor's responsibility is to act in the best interests of the Company rather than the Council.
- b) The Council cannot regulate how Councillors behave on outside bodies or what decisions are made by those bodies. Therefore the Council cannot accept responsibility for matters over which it has no control.

- c) There is still some uncertainty as to the extent of any indemnities which could be given. The Council could not, for example, indemnify Councillors against their own fraud or wilful misconduct. It could potentially cause greater problems and create a false sense of security to give indemnities which later proved to be invalid.
- d) In many instances the nature of the organisation's activities are low risk and an indemnity ought not to be necessary.
- e) Many of these issues are better addressed by the organisations themselves taking out appropriate insurance cover and ensuring they have proper management procedures in place.

## APPENDIX A

### Guidance Notes for Members acting as Directors of Outside Bodies

#### Duties

1. Members who are appointed as directors of outside bodies should note that when acting as a director, their prime duty is to that outside body. Members should therefore take careful note of which capacity they are acting in, at any given time.
2. A Director owes a fiduciary duty to the body to act honestly, in good faith, and in the best interests of the body as a whole. Directors are in the position of quasi-trustees who must take proper care of the assets of the body. The fiduciary duty of a director towards a body is very similar in nature to the fiduciary duty of a Councillor to Council Tax payers.
3. A Director owes a general duty of care and skill to the body, but no more than might reasonably be expected of someone of that person's particular knowledge and experience. A Director is not deemed to be an expert but is expected to use due diligence and to obtain expert advice if necessary.
4. In the same way as a Councillor in respect of Council decisions, a Director is under a duty to exercise independent judgment, although they may take account of third party interests which they represent. In such cases, a Director must disclose that position to the body and must strike a fine balance between the interests of the body and the interests of the third party (e.g. the Council). The Director cannot simply vote in accordance with a Council mandate since to do so would be a breach of duty.
5. The Director may encounter actual or potential situations where there is a conflict between the interests of the Council on the one hand, and those of the body on the other. In such circumstances the only proper manner to resolve the conflict is for the Member to resign from either the body or the Council.
6. Directors must not make a private profit from their position. They must disclose any interests they or their family have in relation to contracts entered into by the body. Whether they may vote on such matters will depend on the Articles or Constitution of that body.
7. Directors must ensure that they comply with the Companies Act in relation to keeping accounts, and making relevant returns to the Registrar of Companies. Failure to do so may incur fines and persistent default may lead to disqualification as a director.

**Modern Councillor Programme – Job Roles**

**Updated June 2015**

	<b>Role</b>	<b>Page number</b>
<b>1</b>	<b>Leader of the Council</b>	<b>2</b>
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<b>3</b>	<b>Chairman of the Audit, Standards and Governance Committee and Overview and Scrutiny Board</b>	<b>8</b>
<b>4</b>	<b>Member of the Audit, Standards and Governance Committee and Overview and Scrutiny Board</b>	<b>11</b>
<b>5</b>	<b>Ward Councillor</b>	<b>13</b>
<b>6</b>	<b>Cabinet Member</b>	<b>15</b>
<b>7</b>	<b>Chairmen of Committees</b>	<b>18</b>
<b>8</b>	<b>Vice Chairman of Committees</b>	<b>20</b>
<b>9</b>	<b>Chairman of the Council</b>	<b>22</b>
<b>10</b>	<b>Vice Chairman of the Council</b>	<b>23</b>

## **Leader of the Council**

### **1. Key Purpose of the Role**

- 1.1 The Leader of the Council will provide visible strategic leadership and direction for the Council. In doing so, he/she will adopt and promote the principles of mutual respect, constructive engagement and a recognition that the common good of Bromsgrove and its citizens is paramount.
- 1.2 The Leader of the Council, with the Chief Executive and the Monitoring Officer and Chairman, will determine the agendas for Council meetings.
- 1.3 The Leader of the Council will work with Cabinet Members to ensure the effective delivery of services against agreed policies of the Council and ensure the delivery of the Cabinet's responsibilities.
- 1.4 The Leader of the Council has such delegated powers as is authorised by the Constitution.
- 1.5 The Leader of the Council will be the primary link between the Chief Executive and Executive Directors.. The Heads of Service will work closely with the Cabinet in the formulation and development of new policies and objectives.
- 1.6 The Leader of the Council will report regularly to Council and the Committees and Boards to engender corporate ownership and awareness.
- 1.7 The Leader of the Council will act as an ambassador of the whole Council, its citizens and businesses on external bodies that enhance the reputation and standing of the District of Bromsgrove (outside civic and ceremonial roles and functions).

### **2. Duties and Responsibilities**

- 2.1 To act as the Chairman of the Cabinet.
- 2.2 To appoint the Cabinet members and allocate areas of responsibility – known as portfolios to Cabinet members.
- 2.3 To lead in the performance appraisal procedures for the Chief Executive and through the Cabinet, to agree the method of appraisal and frequency.
- 2.4 To lead on the development of local, regional, national and European policy and strategic initiatives (including area –wide strategic partnerships) covered by Portfolio functions. In doing so, to promoting the Council's interests and the interests of the citizens and businesses of Bromsgrove District.



- 2.5 In the absence of the relevant Cabinet Councillor at any cabinet meeting, to undertake the functions/responsibilities of the same as appropriate.
- 2.6 To liaise with the relevant chairman(men) of the Overview and Scrutiny Board and Audit Board as required, when items arise which are not in the Forward Plan but which the Cabinet need to consider as a matter of urgent business.
- 2.7 To attend meetings of the Boards as required and be subject to examination in respect of any aspect of Council policies and objectives.
- 2.8 To ensure that the recommendations of Boards are fully considered in the formulation and development of Council policy.
- 2.9 To ensure the effective communication and explanation of all Cabinet decisions and recommendations to Council and to the public.
- 2.10 To ensure that the Cabinet manages the business of the Council within the financial limits set by the Council
- 2.11 To meet with the Council's External Auditor and the Chief Executive, with other members of the Cabinet, to discuss the annual Audit Management Letter and report, as necessary, from there to Council or the Cabinet.
- 2.12 To meet regularly with the Chief Executive to monitor and review the progress of the Council towards it achieving it's approved objectives and priorities.
- 2.13 To agree the business to be included in the agenda for each meeting of the Cabinet, in conjunction with the Chief Executive.
- 2.14 To report to the Council on decisions taken by the Cabinet.
- 2.15 The Leader of the Council will have overall responsibility for:
  - The political leadership of the Council
  - Developing and implementing the policy framework (subject to the approval of the Council)
  - Determining revenue and capital budget strategies and priorities (subject to the approval of the Council)
  - Ensuring probity and financial monitoring
  - Acting as Chief Spokesperson for the Council
  - Representing the views of the Council on matters of corporate or strategic policy to Government and other bodies relevant to the Council's work
  - The delivery of agreed Council priorities, strategies and policies
  - Ensuring the production of a Community Strategy with other key organisations in the public, private and voluntary sectors (subject to the

approval of the Council) and acting as spokesperson on behalf of the community as a whole

- Monitoring the work of the individual portfolio holders within the Cabinet
- Ensuring that learning opportunities for Councillors are in place and that they are relevant and effective.
- Promoting the work of the Council
- Acting as a final arbitrator between portfolio holders within the Cabinet

2.16 To establish and maintain effective and efficient working relations with the leaders of other groups, the cabinet, chairs of other committees/boards, overview and scrutiny, other Members and officers as appropriate.

### **3. Corporate Decision Making**

In addition to his or her role as Leader of the Council, the Leader will be a full voting member of the Council which will:-

- be the principal forum of debate for matters of community and public interest
- determine the overall policies and finances which will guide and direct the delivery of services.

### **4. Local Representative Role**

4.1 The Councillor will perform a local representational role for his or her constituents. Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision making process. These may include

- Conducting regular ward surgeries as appropriate
- Attending community/Parish Council meetings (where appropriate)
- Direct canvassing of ward residents

4.2 Through these methods, Councillors will play a significant part in the consultations on:

- The development of Council plans
- Fundamental reviews of services
- Local initiatives, for example on community safety
- The community planning process, generally

4.3 Councillors will respond to constituents' enquiries and representations, fairly and impartially and effectively represent the interests of their wards and of individual constituents.

### 5.0 **Ways of Working**

5.1 To comply with the Council's Code of Conduct and protocols or such other code of conduct / protocols as the Council may from time to time adopt

5.2 To comply with the Member/ Officer protocol as set out in the Constitution

5.3 To promote the Council's policies on equality and diversity in the workplace, in partnerships and in service provision.

5.4 To keep abreast of national best practice/new initiatives relating to local government so as to ensure the continuous improvement of Council services.

5.5 To take part in training and development programmes and to ensure that this role is undertaken as effectively as possible.

5.6 To make use of technology as an effective means of communication.

## **Deputy Leader**

### **1. Key Purpose of the Role**

- 1.1 To support and deputise for the Leader of the Council in his/her executive functions.

### **2. Key Duties and Responsibilities**

- 2.1 To lead and chair the cabinet where appropriate and ensure their overall effectiveness in the absence of the Leader of the Council.
- 2.2 To support and deputise for the Leader of the Council in his/her community liaison responsibilities.
- 2.3 To assist the Leader in co-ordinating the work of the Cabinet.
- 2.4 To establish and maintain effective and efficient working relations with the leaders of other groups, the cabinet, chairmen of other committees/boards, other Members and officers as appropriate.

### **3. Local Representative Role**

- 3.1 The Councillor will perform a local representational role for his or her constituents. Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision making process. These may include
- Conducting regular ward surgeries as appropriate
  - Attending community/Parish Council meetings (where appropriate)
  - Direct canvassing of ward residents
- 3.2 Through these methods, Councillors will play a significant part in the consultations on:
- The development of Council plans
  - Fundamental reviews of services
  - Local initiatives, for example on community safety
  - The community planning process, generally
- 3.3 Councillors will respond to constituent's enquiries and representations, fairly and impartially and effectively represent the interests of their wards and of individual constituents

### **4. Ways of Working**

- 4.1 To comply with the Council's Code of Conduct and protocols or such other code of conduct / protocols as the Council may from time to time adopt
- 4.2 To comply with the Member/Officer protocol as set out in the Constitution
- 4.3 To promote the Council's policies on equality and diversity in the workplace, in partnerships and in service provision.
- 4.4 To keep abreast of national best practice/new initiatives relating to local government so as to ensure the continuous improvement of Council services.
- 4.5 To take part in training and development programmes and to ensure that this role is undertaken as effectively as possible.
- 4.6 To make use of technology as an effective means of communication.

## **Chairmen of the Audit, Standards and Governance Committee and Overview and Scrutiny Board**

### **1. Key Purpose of the Role**

- 1.1 To chair a Board/Committee covering the areas of responsibility determined by the Council and in particular;
  - To scrutinise budgets, plans, policies and strategies proposed by the Cabinet to ensure that it is effectively held to account for its decisions and performance.
  - To monitor and review policies, strategies and budget decisions and implementation of proposals.
  - To monitor performance and any consequential proposals or recommendations.
  - To identify and pursue cross-cutting strategy issues and ensure a corporate approach to overview and scrutiny.
  - To ensure Councillors information needs are met so that they can contribute fully to decision making with the panel.
- 1.2 To initiate and develop constructive relationships with Members of the Cabinet and Senior Officers.

### **2. Key Duties and Responsibilities**

- 2.1 To establish a manageable programme of work for the Board which reflects the wishes of the Members of the Panel.
- 2.2 To liaise and communicate on a regular basis with relevant officers and specialists to ensure the receipt of appropriate advice to inform effective overview and scrutiny.
- 2.3 To set up mechanisms to ensure regular contact with Non Cabinet Councillors, community representatives and local stakeholders to inform effective overview and scrutiny.
- 2.4 To share good practice, promote the work and independence of the process and further develop the overview and scrutiny role.
- 2.5 To assist in the development or review of policy or practice in specific areas either which have been referred by the Cabinet or which the Board themselves have identified and to make recommendations to the Cabinet on them.

- 2.6 To contribute on the development or review of policies and practices in areas that cover more than one Board.
- 2.7 To establish and maintain effective and efficient working relations with the leaders of other groups, the Cabinet, chairmen of other committees/boards, other Members and officers as appropriate.
- 2.8 To undertake scrutiny functions in a positive and constructive manner which enhances the image and reputation of the Council.
- 2.9 To ensure that the Board only acts within its terms of reference.

### **3. Specific Duties for Chairman of the Audit, Standards and Governance Committee**

- 3.1 To ensure that the Committee monitors the good stewardship of the Council's resources through the work of the Internal Audit function.
- 3.2 To ensure that the Committee monitors both internal and external audit performance including the implementation of audit recommendations and monitoring of annual accounts.
- 3.3 To ensure the Committee works in partnership with the Cabinet, Overview and Scrutiny and officers to ensure that good stewardship of the Council's resources deliver better outcomes for the people of Bromsgrove District.
- 3.3 To ensure that the Committee complies with the Council's Audit, Standards and Governance Procedure Rules.

### **4. Local Representative Role**

- 4.1 The Councillor will perform a local representational role for his or her constituents. Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision making process. These may include
  - Conducting regular ward surgeries as appropriate
  - Attending community/Parish Council meetings (where appropriate)
  - Direct canvassing of ward residents
- 4.2 Through these methods, Councillors will play a significant part in the consultations on:
  - The development of Council plans
  - Fundamental reviews of services
  - Local initiatives, for example on community safety

- The community planning process, generally
- 4.3 Councillors will respond to constituent's enquiries and representations, fairly and impartially and effectively represent the interests of their wards and of individual constituents.

### **5. Ways of Working**

- 5.1 To comply with the Council's Code of Conduct and protocols or such other code of conduct / protocols as the Council may from time to time adopt.
- 5.2 To comply with the Member/ Officer protocol as set out in the Constitution.
- 5.3 To promote the Council's policies on equality and diversity in the workplace, in partnerships and in service provision.
- 5.4 To keep abreast of national best practice/new initiatives relating to local government so as to ensure the continuous improvement of Council services.
- 5.5 To take part in training and development programmes and to ensure that this role is undertaken as effectively as possible.
- 5.6 To make use of technology as an effective means of communication.



## **Member of the Audit, Standards and Governance Committee and Overview and Scrutiny Board**

### **1. Key Purpose of the Role**

- 1.1 To contribute actively in the work of the Council when he/she is not a member of the Cabinet.

### **2. Key Duties and Responsibilities**

- 2.1 In relation to any Board/Committee of which he/she is a member
- To scrutinise budgets, plans, policies and strategies proposed by the Cabinet to ensure that it is effectively held to account for its decision and performance.
  - To monitor and review policies, strategies and budget decisions and implementation of proposals.
  - To monitor performance and any consequential proposals or recommendations.
  - To assist in the identification and examination of cross-cutting issues.
  - To assist in the development or review of policy and practice in specific areas either which have been referred by the Cabinet or which a Board has identified.
- 2.2 To initiate and develop constructive relationships with Members of the Cabinet and officers.
- 2.3 To contribute to the development of a manageable programme of work for the Committee which is based on an identified need and which reflects the wishes of Members of the Committee.
- 2.4 To liaise and communicate on a regular basis with relevant officers and specialists to ensure the receipt of appropriate advice to inform effective overview and scrutiny.
- 2.5 To establish and maintain effective and efficient working relations with the leaders of other groups, the Cabinet, chairmen of other committees/boards, other Members and officers as appropriate.

### **3. Specific Duties of a Member of the Audit, Standards and Governance Committee**

- 3.1 To contribute effectively to the monitoring of both internal and external audit performance including the implementation of audit recommendations and monitoring of annual accounts.

- 3.2 To comply with the Council's Audit, Standards and Governance Committee Procedure Rules

#### **4. Local Representative Role**

- 4.1 The Councillor will perform a local representational role for his or her constituents. Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision making process. These may include

- Conducting regular ward surgeries as appropriate
- Attending community/ Parish Council meetings (where appropriate)
- Direct canvassing of ward residents

- 4.2 Through these methods, Councillors will play a significant part in the consultations on:

- The development of Council plans
- Fundamental reviews of services
- Local initiatives, for example on community safety
- The community planning process, generally

- 4.3 Councillors will respond to constituents' enquiries and representations, fairly and impartially and effectively represent the interests of their wards and of individual constituents.

#### **5. Ways of Working**

- 5.1 To comply with the Council's Code of Conduct and protocols or such other code of conduct / protocols as the Council may from time to time adopt

- 5.2 To comply with the Member/Officer protocol as set out in the Constitution

- 5.3 To promote the Council's policies on equality and diversity in the workplace, in partnerships and in service provision.

- 5.4 To keep abreast of national best practice/new initiatives relating to local government so as to ensure the continuous improvement of Council services.

- 5.5 To take part in training and development programmes and to ensure that this role is undertaken as effectively as possible.

- 5.6 To make use of technology as an effective means of communication.

## **Ward Councillor**

### **1. Key Purpose of the Role**

- 1.1 To participate constructively and effectively in the good governance of the Council and the local area.

### **2. Key Duties and Responsibilities**

- 2.1 To deal effectively with the concerns of local residents on issues pertaining to the Council and its partners.
- 2.2 To represent effectively the interests of the ward for which he/she is elected.
- 2.3 To participate effectively in all relevant consultative processes with the local community and with other organisations.
- 2.4 To develop and maintain a working knowledge of the organisations, services and activities and other matters which affect and impact on the local community.
- 2.5 To participate actively and effectively as a member on any scrutiny, regulatory or other Committee/Board, assembly or forum to which the Councillor is appointed and respect the role of the Chairman. To undertake appropriate training in relation to this role.
- 2.6 To participate, where appropriate in the scrutiny of the services and policies of the authority and their effectiveness in meeting the strategic objectives of the authority and the needs of its residents.
- 2.7 To participate, where appropriate, in the scrutiny of services provided by external organisations or bodies.
- 2.8 To fulfil the statutory requirements of an elected member of a local authority and to participate in those decisions and activities reserved to the full Council.
- 2.9 To develop and maintain a working knowledge of the authority's services, management arrangements, powers, duties and constraints.
- 2.10 To establish and maintain effective and efficient working relations with the leaders of other groups, the Cabinet, chairmen of other committees/boards, other Members and officers as appropriate.
- 2.11 To always act in a manner which ensures that challenge to policy is kept at a political level and does not damage the public reputation of individual officers.

- 2.12 To represent the Council on external bodies, acting in the best interests of the Bromsgrove District Council.
- 2.13 To respond to planning application notifications as appropriate.

### **3. Local Representative Role**

- 3.1 The Councillor will perform a local representational role for his or her constituents. Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision making process. These may include
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- 3.3 Councillors will respond to constituents' enquiries and representations, fairly and impartially and effectively represent the interests of their wards and of individual constituents.

### **4. Ways of Working**

- 4.1 To comply with the Council's Code of Conduct and protocols or such other code of conduct / protocols as the Council may from time to time adopt
- 4.2 To comply with the Member/Officer protocol as set out in the Constitution
- 4.3 To promote the Council's policies on equality and diversity in the workplace, in partnerships and in service provision.
- 4.4 To keep abreast of national best practice/new initiatives relating to local government so as to ensure the continuous improvement of Council services.
- 4.5 To take part in training and development programmes and to ensure that this role is undertaken as effectively as possible.
- 4.6 To make use of technology as an effective means of communication.

## **Cabinet Member**

### **1. Key Purpose of the Role**

- 1.1 To provide visible leadership in the area of their portfolio functions and responsibilities to the Council. To form the link between Members and Officers. To assist in the development of appropriate new policies for consideration by Cabinet. To ensure policies are implemented effectively.

### **2. Key Duties and Responsibilities**

- 2.1 To take the lead role in:
- Overseeing strategies and plans for the services for which they are responsible.
  - Examining and agreeing with heads of Service the departmental budget prior to submission to Cabinet.
  - Meeting not less than bi-monthly with Head of Service to ensure budget spending profile is in accordance with agreed budget approvals.
  - Ensuring budget corrective action taken is in line with defined strategy and policy.
  - Ensuring delivery of plans and strategies are efficient and effective to provide the agreed standard of service.
- 2.2 To be the principal spokesman for the services for which they are responsible.
- 2.3 To ensure that officers consult and keep informed, as necessary, Members, Residents and businesses of Bromsgrove District on all matters covered by the Portfolio functions/ responsibilities.
- 2.4 To ensure appropriate representation for the Council on District wide, regional and national bodies, or at events or conferences for the services for which they are responsible.
- 2.5 To work in collaboration with the Leader, other Cabinet Members and other relevant Members of the Council, MPs and external bodies, to enhance the image and reputation of Bromsgrove and, where appropriate, advocate for resources/inward investment and regeneration for the benefit of the residents of Bromsgrove District.
- 2.6 To refer, as necessary, to the appropriate Officer any issues which fall within the scope of their duties.

- 2.7 To establish and maintain effective and efficient working relations with the leaders of other groups, the cabinet, chairmen of other committees/boards, other Members and officers as appropriate.
- 2.8 To take collective and individual responsibility to work with other Cabinet Members so as to ensure the effective and efficient operation of the Council.
- 2.9 To agree with Heads of Services, appropriate performance objectives and targets for services for which they are responsible
- 2.10 To assist the Council's Board by ensuring that their recommendations are fully considered.
- 2.11 To provide support and assistance to the Leader of the Council.
- 2.12 To work with the Leader, Chief Executive, Executive Directors and Heads of Service to ensure effective and efficient delivery of the Council's corporate plan and, in particular, the continuous improvement of all services covered by their portfolio.
- 2.13 To ensure compliance with any relevant legislative provisions, best practice and good governance arrangements with regard to local government.
- 2.14 To promote the Council's policies on equality and diversity in the workplace and in service provision.

### **3. Local Representative Role**

- 3.1 The Councillor will perform a local representational role for his or her constituents. Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision making process. These may include
  - Conducting regular ward surgeries as appropriate
  - Attending community/Parish Council meetings (where appropriate)
  - Direct canvassing of ward residents
- 3.2 Through these methods, Councillors will play a significant part in the consultations on:
  - The development of Council plans
  - Fundamental reviews of services
  - Local initiatives, for example on community safety
  - The community planning process, generally

- 3.3 Councillors will respond to constituent's enquiries and representations, fairly and impartially and effectively represent the interests of their wards and of individual constituents.

#### **4. Ways of Working**

- 4.1 To comply with the Council's Code of Conduct and protocols or such other code of conduct / protocols as the Council may from time to time adopt
- 4.2 To comply with the Member/Officer protocol as set out in the Constitution
- 4.3 To promote the Council's policies on equality and diversity in the workplace, in partnerships and in service provision.
- 4.4 To keep abreast of national best practice/new initiatives relating to local government so as to ensure the continuous improvement of Council services.
- 4.5 To take part in training and development programmes and to ensure that this role is undertaken as effectively as possible.
- 4.6 To make use of technology as an effective means of communication.

## **Chairman of Committees**

### **1. Key Purpose of the Role**

- 1.1 To preside over Committee meetings in a manner that encourages contributions and achieves the objectives of the meeting; including the resolution of conflict.

### **2. Key Duties and Responsibilities**

- 2.1 To be accountable to the Council for the efficiency and effectiveness of Committee meetings.
- 2.2 To ensure that the Committee only acts within its terms of reference.
- 2.3 To ensure that the Committee complies with the requirements of Standing Orders, Financial Regulations, Council policies and relevant legislation.
- 2.4 To present recommendations of the Committee/Board to Cabinet/Council as required through minutes or attendance at appropriate meetings.
- 2.5 To act as spokesperson for the Council for matters within the jurisdiction of the Committee, liaising with the Council's media office and relevant Cabinet members where appropriate.
- 2.6 To work with officers to enable efficient and effective decision making.
- 2.7 To ensure the overall integrity of the decision making process within the Committee and that the process operates fairly and openly.
- 2.8 To hold pre meetings/briefings with Vice Chairman and officers where appropriate.
- 2.9 To approve draft minutes and agree agendas etc with officers.
- 2.10 To establish and maintain effective and efficient working relations with the leaders of other groups, the Cabinet, chairmen of other committees/boards, other Members and officers as appropriate.

### **3. Specific Duties for Chairmen of Planning and Licensing Committees**

- 3.1 To ensure a thorough knowledge and understanding of the functions of the Committee.
- 3.2 To manage the agenda of the Committee and chair its meetings.
- 3.3 To oversee the function of the Committee and to ensure the efficient discharge of its business.
- 3.4 To monitor the preparation and presentation of reviews of the work of the Committee and to ensure that the outcomes of them are fully taken into account in the policy formulation to the Council.



- 3.5 To ensure Councillor's information needs are met e.g. through background papers so that they can fully contribute to the decision making process.

#### **4. Local Representative Role**

- 4.1 The Councillor will perform a local representational role for his or her constituents. Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision making process. These may include

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- The development of Council plans
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- Local initiatives, for example on community safety
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- 4.3 Councillors will respond to constituents' enquiries and representations, fairly and impartially and effectively represent the interests of their wards and of individual constituents.

#### **5. Ways of Working**

- 5.1 To comply with the Council's Code of Conduct and protocols or such other code of conduct / protocols as the Council may from time to time adopt.

- 5.2 To comply with the Member/ Officer protocol as set out in the Constitution.

- 5.3 To promote the Council's policies on equality and diversity in the workplace, in partnerships and in service provision.

- 5.4 To keep abreast of national best practice/new initiatives relating to local government so as to ensure the continuous improvement of Council services.

- 5.5 To take part in training and development programmes and to ensure that this role is undertaken as effectively as possible.

- 5.6 To make use of technology as an effective means of communication.

## **Vice Chairmen of Committees**

### **1.0 Key Purpose of the Role**

- 1.1 To support and deputise for the Chairman in his/her roles and responsibilities.

### **2. Key Duties and Responsibilities**

- 2.1 To lead and chair the committee and its overall effectiveness in the absence of the chairman.
- 2.2 To establish and maintain effective and efficient working relations with the leaders of other groups, the cabinet, chairmen of other committees/boards, other Members and officers as appropriate.
- 2.3 To attend pre meetings/briefings with the Chairman and officers where appropriate.

### **3. Local Representative Role**

- 3.1 The Councillor will perform a local representational role for his or her constituents. Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision making process. These may include
- Conducting regular ward surgeries as appropriate
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- 3.3 Councillors will respond to constituents' enquiries and representations, fairly and impartially and effectively represent the interests of their wards and of individual constituents

### **4. Ways of Working**

- 4.1 To comply with the Council's Code of Conduct and protocols or such other code of conduct / protocols as the Council may from time to time adopt
- 4.2 To comply with the Member/Officer protocol as set out in the Constitution
- 4.3 To promote the Council's policies on equality and diversity in the workplace, in partnerships and in service provision.
- 4.4 To keep abreast of national best practice/ new initiatives relating to local government so as to ensure the continuous improvement of Council services.
- 4.5 To take part in training and development programmes and to ensure that this role is undertaken as effectively as possible.
- 4.6 To make use of technology as an effective means of communication.

## **Chairman of the Council**

### **1. Key Purpose of Role**

- 1.1 The Chairman of the Council is elected on an annual basis. S/he will chair Council meetings and represent the Council at ceremonial, civic and other functions inside and outside of Bromsgrove.

### **2. Key Duties and Responsibilities**

- 2.1 To preside over meetings of the full Council, preserve order in meetings and ensure that proceedings are conducted impartially and in a proper manner and with regards to the rights of Councillors and the interests of the community.
- 2.2 To ensure that all councillors have the opportunity to contribute to debates subject to the relevant standing orders and constitution.
- 2.3 To uphold and promote the purposes of the constitution and interpreting it when necessary.
- 2.4 To ensure that the Council meeting is a forum for debate of matters of concern to the local community.
- 2.5 To determine that the Council meeting is properly constituted and that a quorum is present.
- 2.6 To inform himself/herself as to the business and objects of the meeting.
- 2.7 To ensure that discussions at Council are within the scope of the meeting and within the time limits provided.
- 2.8 To rule a point of order and other incidental questions which require decision at the time.
- 2.9 To put relevant questions to the meeting and take a vote on them; causing a named vote or ballot to be taken if demanded; if necessary to give a second or casting vote; to declare the result.
- 2.10 To adjourn the Council meeting when circumstances justify or require that course.
- 2.11 To declare the Council meeting closed when business is completed.
- 2.12 To act in a proper and dignified manner at all times as befits the office
- 2.13 To establish and maintain effective and efficient working relations with the leaders of other groups, the cabinet, chairmen of other committees/boards, other Members and officers as appropriate.
- 2.14 The Chairman can not:
- be a member of the Cabinet;
  - be a member of the Audit, Standards and Governance Committee
  - be a member of the Overview and Scrutiny Board.

## **Vice Chairman of the Council**

### **1. Key Purpose of Role**

- 1.1 The Vice Chairman of the Council is elected to deputise and support the Chairman of Bromsgrove District and will represent the Council at ceremonial, civic and other functions inside and outside of Bromsgrove in that capacity as appropriate. He/she will receive civic guests, delegations and visitors, host civic occasions and provide civic hospitality as required.

### **2. Key Duties and Responsibilities**

- 2.1 To provide support and deputise for the Chairman of the Council.
- 2.2 To act as an ambassador for the council both inside and external to Bromsgrove District.
- 2.3 To ensure that the Chairman of the Council is made aware of any Councillor wishing to speak at a Council meeting.

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**Bromsgrove**  
District Council  

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[www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk)

**Corporate Anti-Bribery Policy**  
**Bribery Act 2010**



# Agenda Item 31

## PART 31

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### Introduction

The Bribery Act 2010 came into force on 01 July 2011. The act makes it an offence for a United Kingdom citizen or resident to pay or receive a bribe, either directly or indirectly. The act applies to transactions that take place in the UK and abroad, and both in the public and private sectors.

Bromsgrove District Council through myself and the Senior Management Team is determined to maintain its reputation as an authority which will not tolerate fraud, bribery, corruption or abuse of position for personal gain, wherever it may be found in any area of Council activity.

To achieve this goal the Council will work to identify and eliminate any form of bribery through the introduction of this anti-bribery policy and through a risk assessment process and ongoing monitoring and review.

Elected Members and employees should play a key role in counter-fraud initiatives. This includes providing a corporate framework within which counter-fraud arrangements can flourish, and the promotion of an anti-fraud culture across the whole Council. This should provide a sound defence against internal and external abuse of public funds.

Under the terms of this policy all employees and elected Members are prohibited from soliciting, arranging or accepting bribes intended for the benefit of the Council, or for their personal benefit, or for the benefit of the employee's family, associates or acquaintances. This Policy extends to all the Council's business dealings, transactions and decisions.

Through the 'Whistle Blowing Policy' employees are encouraged to report any suspicion of bribery, safe in the knowledge that they are able to report concerns in confidence and without risk of reprisal

Kevin Dicks  
Chief Executive  
Bromsgrove District Council  
November 2011

### Policy Statement

Bribery is a criminal offence. The Council through its employees and elected Members does not, and will not, pay bribes or offer improper inducements to anyone for any purpose or, accept bribes or improper inducements. It is the Council's policy to conduct all business in an honest and ethical manner. The Council takes a zero-tolerance approach to bribery and corruption and is committed to acting professionally, fairly and with integrity in all business dealings and relationships. The Council will operate and enforce effective systems to counter bribery.

To use a third party as a conduit to channel bribes to others is a criminal offence. The Council does not, and will not, engage indirectly in or otherwise encourage bribery.

In this policy, **third party** means any individual or organisation we come into contact with during the course of our work. This includes actual and potential customers, suppliers, advisers, contractors, government and public bodies (including their advisers, representatives and officials), politicians and political parties. This list is not exhaustive.

This policy applies to all individuals, working at all levels and grades, including senior managers, officers, employees (whether permanent, fixed term or temporary), elected members (including independent Members), consultants, contractors, agents, trainees, seconded staff, casual and agency staff, volunteers, or any other person associated with the Council, wherever located.

This policy also applies to all of the Council's activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this document.

### What is Bribery?

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given
- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure

- accept payment from a third party that you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by the Council in return
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy
- engage in activity in breach of this policy

### **Objective of the Policy**

This policy provides a coherent and consistent framework to enable Bromsgrove Council employees and elected Members to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.

### **Role of Employees**

Employees are governed in their work by the various policies, protocols, codes, rules and procedures, particularly regarding conduct issues and are responsible for ensuring that they follow any instructions given to them by management, particularly in relation to the safekeeping of assets.

The Council requires that all staff, including those permanently employed, temporary agency staff and contractors:

- act honestly with integrity, at all times, and to safeguard the organisations resources for which they are responsible
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities
- read, understand and comply with this policy
- avoid any activity that may lead to, or suggest, a breach of this policy

Staff must notify the Corporate Anti-Fraud Team as soon as possible if they believe or suspect that a conflict with this policy has occurred, or may occur in the future.

Any employee who breaches this policy will face disciplinary action, which could result in summary dismissal for gross misconduct. Disciplinary action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case. The Council reserves the right to terminate it's contractual relationship with other workers if they breach this policy.

### Role of Elected Members

As elected representatives, all Members of the Council have a duty to the citizens of the District to protect the Council from any acts of fraud and bribery and ensure that resources are used prudently and within the law to safeguard public money, including ensuring they do not procure an advantage improperly. Elected Members are required to operate and adhere to the Council's Constitution, which incorporates a Code of Conduct for Members (Part 16 of the Constitution).

The Code includes rules regarding:

- The disclosure of relationships
- The declaration of gifts and hospitality
- Registering personal interests

Elected Members are also referred to the Code of Conduct for Councilors in relation to Gifts and Hospitality set out at Part 21 of the Constitution. This sets out the process that should be followed by elected Members when declaring gifts. See further below under "Record Keeping".

### **The Council's commitment to action**

The Council commits to:

- setting out a clear anti-bribery policy and keeping it up to date
- making all employees aware of their responsibilities under the terms of this policy
- training all employees so that they can recognise and avoid the use of the bribery by themselves or others
- encouraging employees to be vigilant and to report any suspicions of bribery, providing suitable lines of communication with the Corporate Anti-Fraud Team
- ensuring that sensitive information is treated appropriately
- rigorously investigating allegations of bribery, taking such cases to prosecution where relevant
- assisting the Police or other authorities in more complex cases
- taking action against any individual found to be involved in bribery
- provide information to all employees to report breaches and suspected breaches of this policy
- include appropriate clauses in contracts to prevent bribery

### **Facilitation Payments**

These are illegal, and will not be tolerated. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

### **Gifts and Hospitality**

The Council's policy on gifts and hospitality for staff has been updated and is now found within the Officers' Code of Conduct. A copy is included in the Council's Constitution and can be found on the Orb at [insert link](#) (Corporate/Policies/BDC Policies/HR).

The Officer's Code of Conduct makes it clear that:

You should not accept significant personal gifts from contractors and service providers such as food, drink, cars, clothes and jewellery.

Inexpensive calendars, diaries, blotting pads, pens etc (perhaps marked with the donor's name) are acceptable. If in any doubt about whether you should accept a gift, it is best to refuse it.

However, you are prohibited from accepting a gift, or giving a gift to a third party if the following requirements are met:

- it is made with the intention of influencing a third party to obtain or retain business or a business advantage, or to reward the provision or retention of business or a business advantage, or in explicit or implicit exchange for favours or benefits;
- it is given in the Council's name, not in your name
- it includes cash or a cash equivalent (such as gift certificates or vouchers)
- if it is inappropriate for the circumstances
- if the gift received is an inappropriate type and value, and given at an inappropriate time;
- it is given secretly and not openly
- gifts should not be offered to, or accepted from, government officials or representatives, or politicians or political parties, without the prior approval of your Head of Service.

### **Public Contracts and failure to prevent bribery**

Under the Public Contract Regulations 2006 (which gives effect to EU law in the UK) a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. There are no plans to amend the 2006 Regulations for this to include the crime of failure to prevent bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts.

However, the Council has the discretion to exclude organisations convicted of this offence.

### Record Keeping

We must keep records and have appropriate internal controls in place which will evidence the business reasons for:-

- Receiving or declining gifts and hospitality which are offered to staff or elected Members
- Providing gifts or hospitality on behalf of the Council to third parties

Staff must ensure that any gift or hospitality for employees that is accepted, offered or refused, should be recorded in the Corporate Gift and Hospitality Register. The Register is held centrally by the Information Management Team.

Any gifts or hospitality received by elected Members must be reported to the Council's Monitoring Officer in accordance with Part 21 of the Constitution (Gifts and Hospitality – Code of Conduct for Councillors).

### How to raise a concern

All elected Members and employees have a responsibility to help detect, prevent and report instances of bribery. If you have a concern, **please speak up** – your information and assistance will help. The sooner you act, the sooner it can be resolved.

Please refer to the Whistle-blowing (Confidential Reporting Code) Policy for the procedure of how to make your concerns known. It can be found on the Orb at [insert link](#) - (Director of Finance and Corporate Resources/Head of Resources/Corporate Fraud/Team Documents/Corporate Fraud).

Staff who do not have access to the intranet can contact the Corporate Anti-Fraud team directly on:

Email [fraud@bromsgrove.gov.uk](mailto:fraud@bromsgrove.gov.uk)  
Telephone 01527 881221  
Web [www.bromsgrove.gov.uk/fraud](http://www.bromsgrove.gov.uk/fraud)

Preferably your disclosure will be made and resolved internally. However where this proves inappropriate and you are not happy to speak with the Corporate Anti-Fraud Team, your concerns can be raised externally. Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly (e.g. to the media),

Concerns can be anonymous. We will act as soon as possible to evaluate the situation. We have a clearly defined Corporate Anti-Fraud and Corruption Strategy which sets out procedures for investigating fraud, bribery and corruption. It is however, easier and quicker to evaluate allegations, if they are not anonymous, as your assistance may be well be needed to clarify elements of the allegation made.

### **Bribery Act Offences**

There are four key offences under the Act:

- bribing of another person (Section 1)
- accepting a bribe (Section 2)
- bribing a foreign official (Section 6)
- failing to prevent bribery (Section 7)

Section 7 is a corporate offence but an organisation will have a defence to this offence if it can show that it had in place 'adequate procedures' designed to prevent bribery by or of persons associated with the organisation.

### **Bribery Act Penalties**

An individual guilty of an offence under sections 1, 2 or 6 is liable:

- on conviction in a magistrates court, to imprisonment for a maximum term of 12 months, or to a fine not exceeding £5000, or to both
- on conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.

Organisations, if found guilty of an offence under section 7 are liable to an unlimited fine.

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