



Gloucester City Council

COUNCIL

**Meeting: Thursday, 21st March 2013 at 19.00 hours
in Council Chamber, North Warehouse, The Docks, Gloucester**

ADDENDUM

11.	ANNUAL REVIEW OF THE CONSTITUTION (PAGES 1 - 122) Amendments to the Constitution 2013-14.
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CONSTITUTION
~~2012-2013~~
2013-2014

Adopted by Council on ~~22~~21-March 2012
to take effect on 201 May 2012

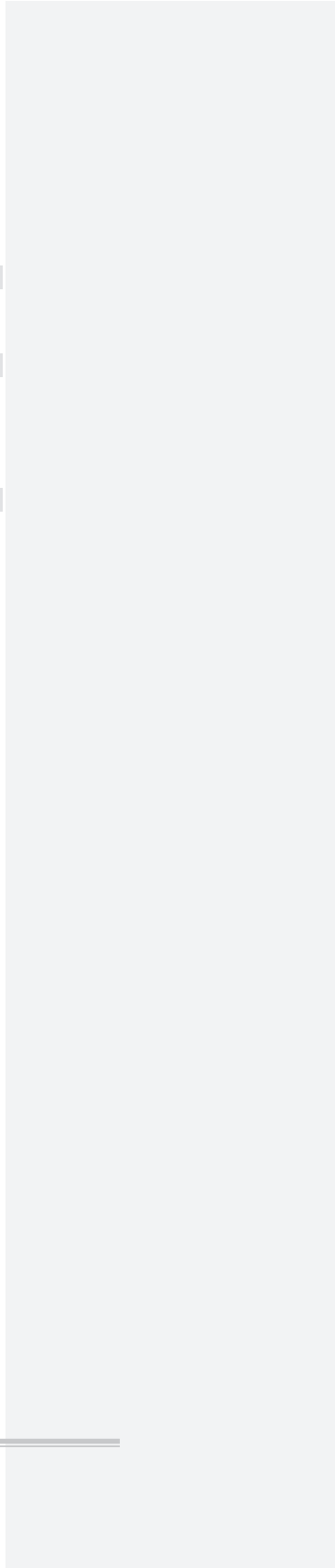
(Revised in August 2012
to take account of changes to standards provisions
following the Localism Act 2011)

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Part 1 - Summary and Explanation

The Council's Constitution

The Constitution sets out how the City Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 15 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules (Part 4) and codes and protocols (Part 5) in this document.

What's in the Constitution?

Article 1 of the Constitution commits the Council to provide clear leadership to the community and to operate efficient, transparent and accountable decision-making processes. Articles 2 to 15 of the Constitution explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Full Council (Article 4)
- Chairing the Council (Article 5)
- Overview and Scrutiny Committee (Article 6)
- The Leader and Cabinet (Article 7)
- Regulatory and Other Committees (Article 8)
- Area Committees and Forums (Article 9)
- Joint Arrangements (Article 10)
- Officers (Article 11)
- Decision Making (Article 12)
- Finance, Contracts and Legal Matters (Article 13)
- Review and Revision of the Constitution (Article 14)
- Suspension, Interpretation and Publication of the Constitution (Article 15)

How the Council Operates

The Council comprises 36 elected Councillors. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Audit and Governance Committee and the Monitoring Officer train and advise them on the Code of Conduct and where there may be a breach of the Code of Conduct, the Audit and Governance Committee and Monitoring Officer will investigate and take the necessary action.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here, Councillors decide the Council's overall policies and set the budget each year.

How Decisions are Made

The Leader, the Cabinet and Individual Cabinet Members, (collectively known as 'The Executive') are responsible for most day-to-day decisions. The Cabinet is made up of the Leader of the Council, and four Councillors. When major decisions are to be discussed or made, these are

Part 1 - Summary and Explanation

published in the ~~Leader's~~ Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

Overview and Scrutiny

The Overview and Scrutiny Committees supports the work of the Leader and Cabinet and the Council as a whole. It allows citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Leader and Cabinet and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitors the decisions of the Leader and Cabinet. It can 'call-in' a decision which has been made by the Leader or Cabinet but not yet implemented. This enables it to consider whether the decision is appropriate. It may recommend that the Leader or Cabinet reconsiders the decision although Leader or Cabinet does not have to change the policy. It may also be consulted by the Leader, Cabinet or the Council on forthcoming decisions and the development of policy.

The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol on Member/Officer relations governs the relationships between officers and Members of the Council.

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution (accessible on the Council's web-site www.gloucester.gov.uk);
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- participate in the Council's question time and contribute to investigations by the Overview and Scrutiny Committees;
- make deputations and present petitions to the Council;
- find out, from the ~~Leader's~~ Forward Plan (published monthly), what major decisions are to be discussed by the Cabinet or decided by the Cabinet, Individual Cabinet Members or officers, and when;
- attend meetings of the Cabinet where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council the Leader, the Cabinet or individual Cabinet Members;

Part 1 - Summary and Explanation

- complain to the Council about the quality and standard of Council services;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor;
- petition for the formation or abolition of a Parish Council;
- petition for action

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Council's Democratic Services, whose contact details can be found in Part 8 of this Constitution.

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Part 2 - Articles of the Constitution

Article 4 – The Full Council

4.01 Definitions

(a) **Policy Framework**

The policy framework means the following plans and strategies to be approved by the Full Council:-

- Plans and Strategies
- Council's Corporate Plan
- Best Value Performance Plan
- Sustainable Community Strategy
- Crime and Disorder Reduction Strategy
- Development Plan Documents
- Housing Strategy(ies)
- Housing Investment Programme
- Climate Change Policy
- Licensing Policy Statement
- Gambling Policy – Statement of Principles
- Sex **Establishment** ~~Shop~~ Licensing Policy
- ~~Street Trading Licensing Policy~~
- Cultural Strategy
- Airport Strategy
- Joint Waste Strategy

including any amendments to, replacement of or updates to any such plans and strategies, save for minor textual or other changes which are unlikely to have a substantial impact or effect on the Policy Framework plans or strategies and which are in accordance with the Council's approved budget.

(b) **Budget**

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

(c) **Housing Land Transfer**

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

4.02 Functions of the Full Council

Only the Council shall exercise the following functions:

- (a) adopting and approving changes to Parts 1 – 4 inclusive of the Constitution;
- (b) approving adopting or making changes that are likely to have a substantial impact or effect on the Policy Framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;

Part 2 - Articles of the Constitution

Article 7 – Leader and Cabinet

7.01 Role

The Leader will carry out all of the Local Authority's functions which are not the responsibility of any other part of the Local Authority, whether by law or under this Constitution. The Leader may make arrangements for the discharge of any of their functions by the Cabinet, an Individual Cabinet Member, a committee of the Cabinet or by an officer of the Council.

7.02 Form and Composition

The Cabinet shall consist of the Leader of the Council together with at least two, but not more than nine, Councillors.

7.03 Leader

~~In accordance with the decision of the Council on 25 November 2010, from May 2010 the Leader of the Council, being a Member of the Council must be appointed for a four year term~~

The Leader of the Council will hold office until:

- (a) he/she resigns from the office; or
- ~~(b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension);~~
or
- (c) he/she is no longer a Councillor; **or**
- (d) **the Council passes a simple majority resolution to remove him/her from the office.**

In the event of the post of Leader of the Council becoming vacant for any of the reasons (a) to (d) above, the Council shall appoint another Member of the Council at the meeting at which the Leader is removed from office or at a subsequent meeting. to complete the remainder of the four year term of office (or up to the end of the new Leader's term of office as a Member) whichever is shorter.

Comment [s1]: The legislation has now changed to allow local authorities to decide whether or not they want to specify a term of office for their Leader (Section 91A Local Government Act 2000). As GCC has elections by thirds, it would seem more practicable to remove this provision.

Comment [s2]: Removed by changes to standards under Localism Act

Comment [s3]: Under S91 of the Local Government Act 2000, the Council's executive arrangements must include provision for the Council to remove the Leader by resolution.

Comment [s4]: Section 91A of the Local Government Act 2000

7.04 The Deputy Leader and other Cabinet Members

The Leader of the Council will appoint Cabinet Members and advise Council accordingly.

Cabinet Members must be Councillors.

The Leader must appoint one Cabinet Member to be Deputy Leader of Council and to exercise all the powers of the Leader in the absence of the Leader. The Deputy Leader shall hold office ~~for a period of four years or until:~~

- (a) he/she resigns from office; or
- ~~(b) he/she is suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension);~~ or
- (c) he/she is no longer a Councillor; or
- (d) he/she is removed from office by the Leader of the Council.

Part 2 - Articles of the Constitution

Cabinet Members shall hold office until:

- (a) they resign from office; or
- ~~(b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or~~
- (c) they are no longer Councillors; or
- (d) they are removed from office by the Leader of the Council.

7.05 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

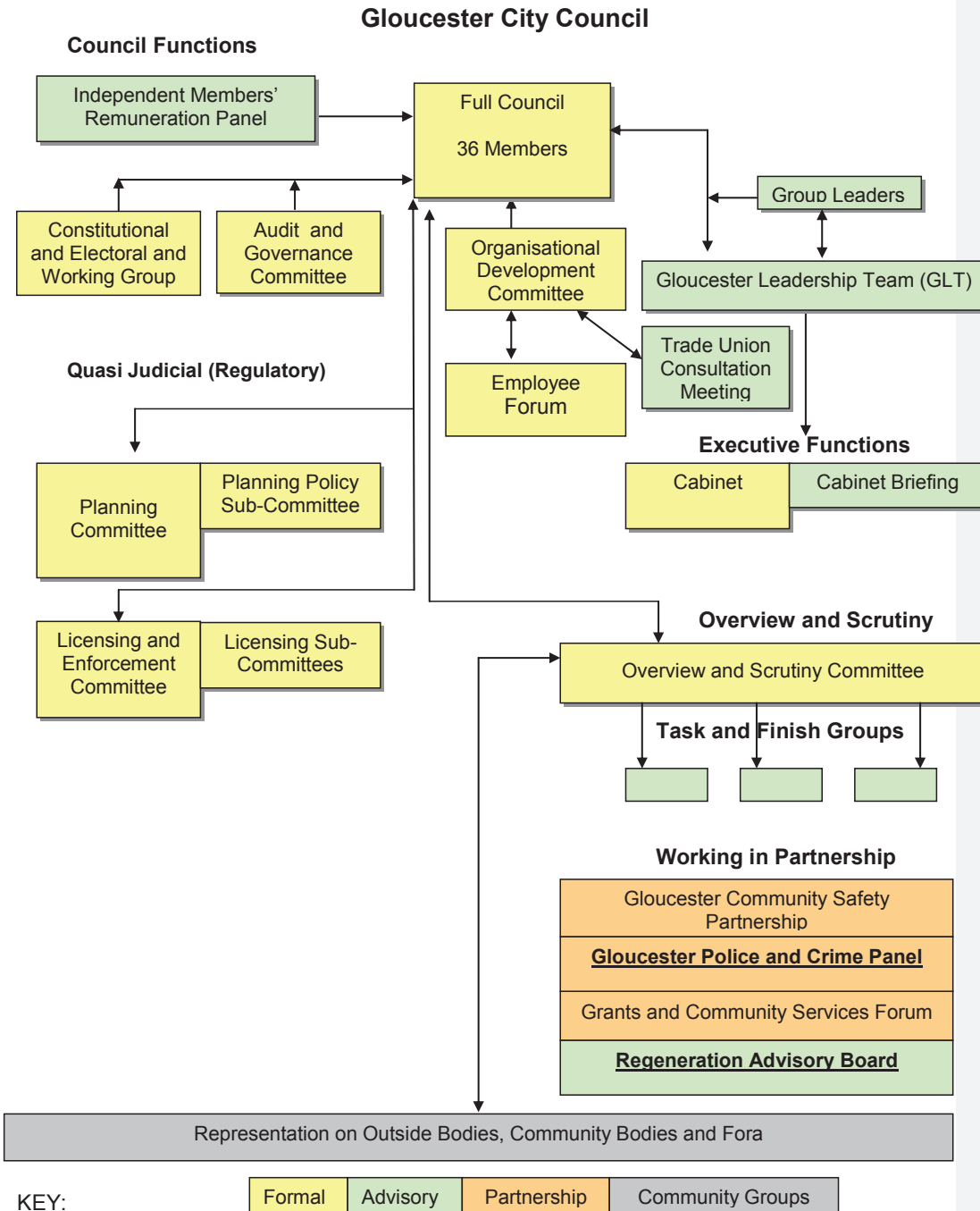
7.06 Responsibility for Functions

The Leader of the Council will maintain a list in Part 3 of this Constitution setting out which individual Members of the Cabinet, Committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Executive functions.

7.07 Transitional Arrangements

- (a) In the event that, after the annual elections in May each year, the Leader does not command the majority of the members of the Council having regard to the known party affiliations of the newly elected Council, or if, at any point during the municipal year, the political balance on the Council changes, the Leader (or the Deputy Leader, if acting in the absence of the Leader) and Cabinet (if appointed) shall only exercise their powers with the agreement of the leader of the majority group (or the other group leaders if no one group has a majority) to ensure that no decision is taken that in the judgement of the leader of the majority group (or the other group leaders if no one group has a majority) does not command the support of the leaders representing the majority of the members of the Council.
- (b) These transitional arrangements shall apply until the Annual General Meeting in the case of a change in political balance following annual elections in May or until the next Ordinary Council meeting in the case of a change in political balance occurring for some other reason.
- (c) The exercise of delegated powers by officers of the Council will be subject to a similar limitation in this period.
- (d) Where a delegated power requires consultation with the Leader or Cabinet portfolio holder, the requirement will be extended to include the Leader or leaders of other groups (or their respective spokespersons, if identified).

Part 2 - Articles of the Constitution



24 May 2012 (Revised — 17 August 2012) 20 May 2013

Part 2 - Articles of the Constitution

Article 11 – Officers

11.01 Management Structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. The Council's staff structures and designated posts will be varied from time to time to meet changing organisational needs of the Council.
- (b) **Chief Officers.** The Council will engage persons for the following posts, who will be designated Chief Officers:

Post	Functions and Areas of Responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers). Overall responsibility for the delivery of the Council's objectives and priorities. Provision of professional advice to all political parties in the decision-making process. Responsibility to provide and maintain a comprehensive system of formal record keeping to meet various legislative requirements and to maintain an accurate record of Council's decision-making processes. Representing the Council on partnership and external bodies (as required by statute or the Council).
Corporate Director of Regeneration	Forward planning, Economic Development, Regeneration and Culture (Client Marketing), Museums and Heritage, Development Control, Building Control, Building Design, Property management, Facilities management (including catering), O/S parking, Markets, Shopmobility
Corporate Director of Services and Neighbourhoods	Client – Housing (GCH), Housing Strategy, Client – Streetcare (Enterprise), Client – Leisure (Leisure Trust), Sports Development, Homelessness, Allocations, Environmental Health, Regulatory Services, Cemeteries and Crematorium, Customer Services, Shopmobility , Community Safety, Emergency Planning and Business Continuity Planning, Policy, Performance, Communications and Marketing, Community Strategy, Business Improvement, Equalities, Community Engagement, Voluntary and Community Sector Support, Administration
Corporate Director of Resources	Finance, Accountancy, Audit, IT, Client - Revenues, Benefits, Investigations and Welfare Rights (Civica), Procurement, Payroll, Creditors/Debtors, Corporate Governance and Risk Management, S151 Officer Duties, Organisational Development, Personnel, Legal, Democratic and Electoral Services, Monitoring Officer.

Part 2 - Articles of the Constitution

Article 12 – Decision Making

12.01 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 Part 3 of this Constitution.

12.02 Principles of Decision Making

All decisions of the Council (whether they are the responsibility of the Leader or Cabinet or not) will be made in accordance with the following principles:

- Proportionality (i.e. the action should be proportionate to the desired outcome);
- Due consideration of professional advice from officers;
- Respect for human rights;
- Presumption in favour of openness; and
- Clarity of aims and desired outcomes.

12.03 Types of Decision

(a) **Decisions reserved by the full Council and which cannot be delegated.**
Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

(b) **Key decisions.**

- (i) A decision in relation to an Executive function which results in the Local Authority incurring expenditure or making of a saving which is significant having regard to the budget for the service or function to which the decision relates.
- (ii) A decision that is likely to have a significant impact on two or more wards within the Local Authority.
- (iii) A decision in relation to expenditure in excess of £100,000 or significant savings.
- (iv) A decision in relation to any contract valued in excess of £500,000.
- (v) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution. (See ~~Leader's~~ Forward Plan)

12.04 Decision Making by the Full Council

Subject to Article 12.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

12.05 Decision Making by the Cabinet

Subject to Article 12.08, the Cabinet will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

12.06 Decision Making by Overview and Scrutiny Committees

The Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

Part 2 - Articles of the Constitution

Article 14 – Review and Revision of the Constitution

14.01 Duty to Monitor and Review the Constitution

The Monitoring Officer shall monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect, and shall report as appropriate to Council, and at least annually.

Monitoring and Review of the Constitution

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:

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

14.02 Changes to the Constitution

- (a) **Approval.** Changes to the Constitution will only be approved by the full Council upon consideration of a proposal prepared by the Monitoring Officer after consultation with the Constitutional and Electoral Working Group.
- (b) The Monitoring Officer has delegated authority, in consultation with Group Leaders and the Chief Finance Officer to approve minor amendments to Contract Standing Orders and the Financial Regulations.
- (c) Where officer titles and responsibilities change due to organisational changes or changes in management arrangements, the Monitoring Officer shall be empowered to amend the Constitution to reflect such changes.
- (d) The Monitoring Officer has delegated authority to approve updated references to legislation, minor amendments and additions required by legislation and minor amendments for greater clarity which do not affect the meaning of any of the Articles and Rules of the Constitution.
- ~~(e) **Change from a Strong Leader and Cabinet form of executive to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.~~

Comment [s5]: Suggest deletion as process for changing from one form of executive to another is set out in legislation.

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Part 3 - Responsibility for Functions

Scheme of Management - Responsibility for Council and Executive Functions

Introduction

This part of the Constitution sets out which parts of the Council are responsible for carrying out particular functions. All functions are the responsibility of either Full Council or the Executive.

Functions fall into three categories:

- (i) **Council functions:** (Functions, which are the responsibility of Full Council and **not** the Executive).
These functions may be exercised by the Council itself or delegated to a committee, sub-committee or officer. Such delegations will be set out in the terms of reference for that committee / sub-committee or recorded in the Officers' Scheme of Delegation.
- (ii) **Local Choice functions:**
These are functions which the Council can chose to discharge either through a committee / sub-committee or the Executive or delegated to officers.
- (iii) **Executive functions:** (Functions, which are the responsibility of the Executive and **not** Full Council)
These functions may be exercised by the Leader him/herself or delegated to the Cabinet, a committee of the Cabinet, or an individual Member of the Cabinet (Portfolio Holder) or officer, or another Local Authority. Such delegations will be set out in 3.1 or the terms of reference for that committee / sub-committee or recorded in the Officers' or Members' Scheme of Delegation.

1. Council Functions

The Council is responsible for all matters relating to the Policy Framework as detailed in Article 4 namely:

Policy Framework

- Plans and Strategies
- Council's Corporate Plan
- Best Value Performance Plan
- Sustainable Community Strategy
- Crime and Disorder Reduction Strategy
- Development Plan Documents
- Housing Strategy(ies)
- Housing Investment Programme
- Climate Change Policy
- Licensing Policy Statement
- Gambling Statement of Principles
- ~~Sex Shop Licensing Policy~~ **Sex Establishment Licensing Policy**
- ~~Street Trading Licensing Policy~~
- Cultural Strategy
- Airport Strategy
- Joint Waste Strategy

In addition to the matters set out in Article 4.02, the Council has specifically reserved the following responsibilities for its determination:

- (1) Virements from the Council's approved Annual Revenue and Capital Budgets in excess of £100,000
- (2) Approval and allocation of the Council's annual borrowing limit

Part 3 - Responsibility for Functions

- (3) Approval of Treasury Management Strategies and Policies
- (4) The appointment of review boards under regulations made pursuant to Section 34(4) of the Social Security Act 1998
- (5) The duty to appoint an Electoral Registration Officer
- (6) The duty to appoint Returning Officer for local government elections
- (7) The power to make temporary appointments to Parish Councils.
- (8) The power to submit proposals to the Secretary of State for an Order under Section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.
- (9) Power to make Standing Orders with regards to Contracts.
- (10) Power to appoint the Chief Executive/Head of Paid Service.
- (11) Any decision as to whether a casino is located in Gloucester
- (12) Any resolution for whole Council elections
- (13) Any change in the name of electoral areas
- (14) Those functions appearing in Schedule 4 to the Functions Regulations save to the extent as determined by the Council or as provided elsewhere in this Scheme of Delegation.

1.1 Quasi judicial Functions

These are local authority functions, which cannot be the responsibility of the Executive. The following tables specify the delegation of Council functions to Committees, Sub-committees and officers. Where the table indicates that the function is exercisable by both a Committee or Sub-committee and a Chief Officer, the Chief Officer may only exercise the function to the extent that is not covered within the terms of reference of the Committee or Sub-committee.

Committee	Membership	Summary of Functions	Delegation of Functions
Planning	Thirteen Members of the Council	<p>Planning and Conservation functions relating to Town and Country Planning and Development Control as specified in Part A (Functions relating to Town and Country Planning and Development Control) of Schedule 1 to The Local Authorities (Functions and responsibility) Regulations 2000.</p> <p>To determine all matters relating to Section 106 Process – determining Council Priorities for Developer Contributions</p>	<p>In accordance with Article 8 of the Constitution and the Committee's Terms of Reference set out in the Council's Scheme of Delegation</p> <p>See Annex A</p>
Licensing and Enforcement	Ten to fifteen Members of the Council	<p>Taxi, private hire vehicles, liquor, late night refreshment, entertainment, gaming, gambling, Sex Establishments Shops , Street trading licensing</p>	<p>In accordance with Article 8 and the Committee's Terms of Reference set out in the Council's Scheme of</p>

Part 3 - Responsibility for Functions

		and miscellaneous licensing Functions relating to licensing and registration as set out in Part B (Functions relating to Licensing and Registration) of Schedule 1 to The Local Authorities (Functions and responsibility) Regulations 2000	Delegation See Annexes B and C
Organisational Development Committee	Five Members of the Council	Approval of Employment Policies and matters relating to the appointment of Statutory and Chief Officers	In accordance with Article 8 and the Committee's Terms of Reference as set out in the Council's Scheme of Delegation
Audit and Governance Committee	Seven Members of the Council	Internal and external audit, risk management and corporate governance. To promote and maintain high standards of conduct by Councillors and co-opted Members.	In accordance with Article 8 and the Committee's Terms of Reference set out in Council's Scheme of Delegation

(The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (S.I. 2000 No. 2853) as amended are referred to in this part of the Constitution as the "Functions Regulations").

Part 3 - Responsibility for Functions

provided that all such decisions will be taken by the decision maker having regard to the advice of the Council's Monitoring Officer in interpreting these provisions.

3.2 Cabinet Portfolios

Individual Cabinet Members are empowered to make all executive decisions in respect of their own portfolio area of responsibility. Decision making by individual Cabinet Members applies only to executive functions that have been delegated to the Cabinet.

The allocation of portfolios to Cabinet Members in ~~2012/13~~ **2013/14** and their delegated executive functions will be as follows: -

A. Leader of the Council and Cabinet Member for Regeneration and Culture

The Cabinet Member is responsible for all matters relating to the Council's affairs in respect of the Regeneration and Culture portfolio. In particular, and subject to the Council's Executive Arrangements, the Cabinet Member is responsible for and may make decisions about:

- Regeneration
- Planning
- GHURC
- Marketing Gloucester
- Museums, heritage and monuments
- Culture
- Guildhall
- Festivals & Events
- Tourism/TIC
- Economic Development
- Markets and Street Trading
- Property & Asset Management
- City Centre Management
- Car Parking
- **Street naming and numbering**

Comment [s6]: This change is to reflect current decision-making

B. Cabinet Member for Housing, Health and Leisure

The Cabinet Member is responsible for all matters relating to the Council's affairs in respect of the Housing & Health portfolio. In particular, and subject to the Council's Executive Arrangements, the Cabinet Member is responsible for and may make decisions about:

- Environmental Health
- Housing & GCH
- Licensing
- Leisure/Aspire client role/sports development

C. Cabinet Member for Environment

The Cabinet Member is responsible for all matters relating to the Council's affairs in respect of the Environment portfolio. In particular, and subject to the Council's Executive Arrangements, the Cabinet Member is responsible for and may make decisions about:

- Streetcare partnership

Part 3 - Responsibility for Functions

Meetings of the City Council

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1. The Cabinet

The Cabinet shall have the functions, powers and responsibilities delegated to it by the Leader which are set out below and in Article 7 of this Constitution.

Membership: 5 (Quorum 2 one of whom must be the Leader or Deputy Leader)

Comprising: The Leader (appointed by Council) and 4 other Cabinet Members (appointed by the Leader). The Leader must also appoint one of the Cabinet Members as Deputy Leader of Council to act in the absence of the Leader.

The Leader has agreed the following 5 Portfolios for ~~2012-2013~~**2013/14**:-

- Regeneration and Culture
- Performance and Resources
- Environment
- Housing, Health and Leisure
- Communities and Neighbourhoods

Part 3 - Responsibility for Functions

Frequency

of Meetings: 9 meetings per annum or as agreed by the Leader.

(a) Role:

- (i) The Cabinet will bear the responsibility for any of the local authority's functions which are delegated to it by the Leader .
- (ii) The Leader will publish a Forward Plan monthly, on a rolling basis, showing a twelve-month programme of work and those decisions, which are "Key Decisions", and also those decisions that may be made by a Portfolio holder or which are delegated to an officer to make.
- (iii) All decisions shown in the ~~Leader's~~ Forward Plan are subject to scrutiny by the Overview and Scrutiny Committee before the decision is taken, and through the Call-in process after the decision is made, but not yet implemented.

5. Licensing and Enforcement Committee

The Committee and Sub-Committee shall have functions, powers and responsibilities set out below and in Article 8 of this Constitution.

Membership: 13 (Quorum 4) [Proportional to the political composition of the Council].

Comprising: Members who are not Members of the Cabinet.

Requirement: Members appointed to the Licensing and Enforcement Committee shall be obliged to attend regular and appropriate training and abide by the Probity in Licensing and Enforcement Code of Practice.

Frequency

of Meetings: Quarterly meetings.

(a) Role:

- (i) to undertake all matters in relation to the statutory licensing and registration functions of the Council (save to the extent that such responsibility has been delegated to another Committee or Officer by the Council) such duties to include liquor, entertainment and late night refreshment licensing and the Gambling Act 2005. The committee's role includes the formulation and approval of policy guidelines with the exception of the following which are dealt with by the Council:
 - Sex ~~Shop~~ **Establishment** Licensing
 - ~~the criteria which define the types of vehicles which are acceptable for the grant of additional Hackney Carriage Vehicle Licences [Note: deletion proposed subject to consultation with the trade]~~
 - Licensing Policy Statement - Licensing Act 2003
 - Gambling Act Statement of Principles - Gambling Act 2005
 - Street Trading Licensing
- (ii) ~~to undertake liaison with~~ **receive information from the County Council and other relevant bodies on consumer protection matters relating to the Council's licensing functions.**
- (iii) to hear and determine licence applications that are contentious and/or where objections have been lodged by statutory consultees, residents, other third parties or where officers have reservations about the appropriateness of an application or the suitability of an applicant.
- (iv) without prejudice to the above roles and the Council's Scheme of Delegation the Licensing and Enforcement Committee shall be responsible for those matters set out in Parts B and C (Licensing and registration functions) of Schedule 1 to the Local Authorities (Functions and

Comment [s7]: CEWG – 12.03.13

Comment [s8]: CEWG – 19.02.13

Part 3 - Responsibility for Functions

Responsibilities) (England) Regulations 2000, the Licensing Act 2003 and the Gambling Act 2005.

- (v) the Licensing and Enforcement Committee shall be empowered to set up a sub-committee or sub-committees to discharge functions and act in accordance with powers delegated by the Committee. In the context of the Committee's powers under the Gambling Act 2005 sub delegation may extend to the permitted discharge of functions by an officer.
- (vi) ~~to hear matters~~ **receive reports and determine policy in relation to** ~~relating to street trading consents.~~

Comment [s9]: CEWG – 19.02.13

(b) Delegation to Officers

Those functions relating to statutory licensing and registration functions which have been delegated to officers are set out in the Council's Scheme of Delegation in Part 3 to this Constitution.

7. Licensing and Enforcement Sub-Committee (Enforcement)

Membership: 7 (Quorum 3)

Comprising: 7 Members selected from the parent committee by the Corporate Director of Resources if at all possible politically proportional to the composition of the Council and shared between all Members of the parent committee on a rota basis.

Requirement: Members appointed to the Licensing and Enforcement Sub-Committee shall be obliged to abide by the Probity in Licensing and Enforcement Code of Practice.

Frequency

of Meetings: **Ad-hoc meetings in consultation with the Licensing and Enforcement Manager and Corporate Director of Resources.**

(a) Role:

- (i) To undertake all matters relating to the discharge of functions in accordance with the powers delegated by the Parent Committee.
- (ii) To hear Hackney Carriage and Private Hire disciplinary matters in accordance with the provisions of the Council's adopted General Conditions for Hackney Carriage and Private Hire Licensing.
- (iii) **To hear appeals against refusals of applications for street trading consents.**

Comment [s10]: CEWG asked (19.02.13) for L & E Committee to hear appeals, but it has already delegated these matters to its enforcement sub-committee.

Part 3 - Responsibility for Functions



GLOUCESTER
CITY COUNCIL

Officers' Scheme of Delegation

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Part 3 - Responsibility for Functions

The key responsibilities of all Corporate Directors are to: -

- Provide direction, leadership and effective management in respect of their service area.
- Contribute to Corporate Strategies and Policies of the City Council
- Work in Partnership with the wider community
- Ensure customer focused outcomes
- Lead and encourage effective Overview and Scrutiny
- Prepare for Civil Emergencies and Business Contingency

1. General Provisions

- 1.1 The Officer Delegation Scheme confers on the Chief Executive and Corporate Directors of Gloucester City Council, extensive powers to carry out Council functions both Executive and Non-Executive.
- 1.2 The Chief Executive and Corporate Directors do not have delegated authority to take “Key” Decisions unless specifically authorised to do so by the Leader, Cabinet or Individual Cabinet Members or if the Chief Executive or Corporate Director is taking action under urgency powers in accordance with paragraph 6. below.
- 1.3 The Chief Executive and Corporate Directors are not required to exercise all delegations personally and may delegate powers to other Officers of the City Council either as shown in this scheme or a personal delegation meeting the required criteria. Each Corporate Director is responsible for maintaining a register of such delegations and for notifying the Group Manager, Legal and Democratic Services of any delegations made.
- 1.4 All powers, responsibilities and duties must be exercised with professionalism and due diligence and be in accordance with current Legislation, Procedural Rules, Financial Regulations, Contract Standing Orders, Council Policies and decision-making processes.
- 1.5 If a matter is sensitive, contentious or doubtful then the officer should ensure they consult with the relevant Statutory Officers, Cabinet Member and Leader and/or Deputy Leader of the Council as deemed appropriate in the circumstances.
- 1.6 Each Corporate Director shall have the power in relation to the following to:-

Policy and Service Provision

- 1.7 Deal with all routine matters (not the subject of a report) of his/her Directorate and manage the resources assigned to him/her within the policies and corporate framework set by the Council and in accordance with legislation.
- 1.8 Contribute to the development of Corporate Strategies, Policies and Plans and the collective management of the Authority.
- 1.9 Ensure all key decisions are identified and dealt with in accordance with the Cabinet Procedure Rules, Overview and Scrutiny Procedure Rules, and the Budget and Policy Framework Rules (see Part 4)
- 1.9 To respond to national policy or other consultation documents, in consultation with the relevant Cabinet Portfolio Holder.

Legal Matters [Note. Legal Services to be involved from earliest stage]

- 1.10 To authorise legal proceedings, in consultation with the Group Manager, Legal and Democratic Services, in respect of offences under Acts, Regulations, bylaws or orders To

Part 3 - Responsibility for Functions

enter into procurement arrangements for the provision of goods and services for the execution of the Council's day to day affairs, subject to compliance with the Council's Financial Regulations, Contracts Standing Orders and Procurement Rules.

- 1.16 To settle Contractors' Claims and accept additional cost reports in line with thresholds set out in Contract Standing Orders.
- 1.17 To authorise payment of revenue grants to voluntary organisations from within approved budgets and within policy.
- 1.18 The following delegations (1.25 to 1.30) require the Chief Executive or Corporate Director to maintain a written record of decisions taken and the reasons for those decisions. (Such record to be available for inspection by any Member of Council); if the matter is sensitive, contentious or doubtful then the officer should consult the relevant Cabinet Member and Leader and/or Deputy Leader of the Council.

In respect of Property Matters:

- 1.19 The granting or taking of leases, the completion of agreements, licences, registrations, consents, easements, wayleaves, terms for the sale and purchase of land or properties, the approval of rent reviews and renewals of leases which on the advice of the Group Manager, Legal and Democratic Services, and the ~~Strategic Property, Estates and Valuation Service~~ **Asset** Manager, are lawful and are either in line with inflation or the tone of the property market.
- 1.20 Where land is no longer required by the Council for the purpose for which it is held the Gloucester Leadership Team may agree the form or method of disposal of such property subject to the agreement of local Members in all cases outline planning consent for its beneficial use shall be obtained (see Contract Standing Orders, Section 16 – Land and Property).
- 1.21 The letting of land and premises under the control of the relevant Service Unit.

In respect of Tenders and Quotations:

- 1.22 The acceptance of the most advantageous tenders or quotations for the supply of goods or equipment or the execution of works within the approved estimates.
- 1.23 The acceptance of the most advantageous tender for a capital scheme.
- 1.24 The acceptance of the highest tenders or quotations for the disposal of land, goods or equipment not required.

Miscellaneous

- 1.25 The serving of notices and making of orders in relation to their service area responsibilities, in consultation with the Group Manager, Legal and Democratic Services.
- 1.26 The taking of action in respect of civil emergencies and business continuity, including participating and contributing to the Emergency Plan.
- 1.27 To seek permission for the carrying out of development in accordance with the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992.
- 1.28 **To sign any documents that may be required in the course of the Council's business, where power to sign such documents is not already delegated under this Constitution.**

2. Responsibilities as Proper Officer Regarding Background Papers

- 2.1 Any officer presenting a report to the Council or any of its Committees, shall be the Proper Officer in relation to the provisions of Section 100D of the Local Government Act 1972 (as amended by section 97.1 of the Local Government Act 2000). Where two or more officers

Part 3 - Responsibility for Functions

Chief Executive (Head of Paid Service)

C. Specific Powers

The Council delegates the following specific powers to the Chief Executive or his/her nominees subject to prior consultation with the relevant Cabinet Member and Leader and/or Deputy Leader of the Council in relation to sensitive, contentious or doubtful matters:

1. To determine and recommend to Council an appropriate Senior Management Structure i.e Corporate Director Level.
2. In accordance with the Officer Employment Procedure Rules (see Part 4), and in relation to the appointment of Corporate Directors and Statutory Officers, to arrange a Panel of Council Members including at least one Cabinet Member to select and appoint Corporate Directors. (The appointment to be reported to Council.)
3. To determine requests for early retirement and voluntary redundancy including lump sum compensation in accordance with Council policy and after consultation with the Corporate Director of Resources and the Group Manager, Organisational Development.
4. To approve the commissioning of independent advice and support where specialist advice or guidance is considered necessary upon any matter.
5. The power to make payments or provide other benefits in cases of maladministration etc pursuant to Section 92 of the Local Government Act 2000.
6. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.
7. To authorise requests for investigations under the Regulation of Investigatory Powers Act 2000 and to maintain a register of investigations authorised under the Act.
8. **To accept or reject expressions of interest submitted under the community right to challenge, in accordance with the legislation and in consultation with the relevant Cabinet Member and the Monitoring Officer.**

Part 3 - Responsibility for Functions

Corporate Director of Resources (S151 Officer)

A. General Powers:

1. The Corporate Director of Resources is authorised to discharge any function of Full Council, a Committee of the Council or of the Executive in relation to:
 - Finance, Accountancy and Audit
 - ICT
 - Client for Revenues and Benefits, Investigations and Welfare Rights
 - Procurement
 - Payroll, Creditors/Debtors
 - Corporate Governance and Risk Management
 - Use of Resources Framework
 - S151 Officer Duties
 - Legal and Democratic Services, including Electoral Administration and Civic Support
 - Human Resources
 - **Gloucestershire Airport**

with exception of those matters where this constitution has directed that the delegated authority should not be exercised and that the matter should be referred to Full Council, a Committee of the Council or of the Executive for consideration.

2. The Corporate Director of Resources is responsible for all matters considered to be sensitive, contentious or doubtful, and will consult the Leader, Deputy Leader or Executive Member and statutory officers as appropriate, and take urgent actions as necessary.
3. The Corporate Director of Resources is designated as the Officer responsible for the administration of the Council's financial affairs pursuant to S151 of the Local Government Act 1972, Section 112 of the Local Government Finance Act 1988 and the Local Government Finance Act 1992.
4. The Corporate Director of Resources (S151 Officer) will annually review the effectiveness of the system of internal audit and control, and provide a report to the Audit Committee in support of the Annual Governance Statement.

B. Proper Officer Responsibilities:

The Corporate Director of Resources (Chief Finance Officer -S151 Officer) is hereby appointed the Proper Officer in relation to: -

Section	Legislation	Function
Section 115 (2)	Local Government Act 1972	The officer to whom money properly due from officers shall be paid
Section 146 (1) (a and b)	Local Government Act 1972	The officer to make statutory declarations and issue any certificate with regard to securities held by local authority companies
S151 and Sections 113 and 114	Local Government Act 1972 Local Government Finance Act 1988)	The officer to be responsible for the proper administration of the Authority's financial affairs (and to issue a report to Members if there is or is likely to be unlawful expenditure or an unbalanced budget)
210(6) and (7)	The Local Government Act 1972	In relation to Treasurer or Finance Officer

Part 3 - Responsibility for Functions

Section 228(3)	Local Government Act 1972	Inspection of accounts
	Local Government Act 2003	Requirement to report to Council annually on the robustness of estimates and financial reserves
Regulation 6	Accounts and Audit Regulations 2003 (as amended by the Accounts and Audit (Amendment) (England) Regulations 2006)	Requirement to provide adequate and effective system of internal audit of its accounting records and of its system of internal control. Also to provide for internal auditors to have access to, and be supplied with, any documents, information, or explanations necessary for the purpose of the audit
Section 116 -	Local Government Finance Act 1988	Notification to the Council's auditor of any meeting to be held under Section 15 of the 1988 Act (meeting to consider any report of the Chief Finance Office under Section 114)
Section 139A	Local Government Finance Act 1988	Provision of information to the Secretary of State in relation to the exercise of his powers under this Act as and when required.
	Local Government (Contracts) Act 1997 and Regulations	Certification of relevant powers to enter into contracts (Authorised and Appointed jointly with the Group Manager Legal and Democratic Services)
	Criminal Justice And Police Act 2001	Delegated power to authorise officers to enter premises and seize items where the Council has a power of seizure under this Act and to perform other related duties (return and security of seized items) (To be exercised Jointly by the Chief Executive and Corporate Director of Resources)
Sections 17 and 37	Crime And Disorder Act 1998	Having regard to effect of the exercise of any function on the need to prevent crime and disorder and offending by children and young persons (Duty on all Corporate Directors)
	The Local Government and Housing Act 1989	
	The Accounts and Audit Regulations 2003	
	The Local Authority (Capital Finance and Accounting) (England) Regulations 2003	
Section 99 + Schedule 12 4(2)(b) and 4(3)	Local Government Act 1972	To give notice and send summonses in respect of any Council meeting
Section 100	Local Government Act 1972	To give public notice of any meeting to which the public are entitled to attend, provide copies of the agenda and facilities for the press

Part 3 - Responsibility for Functions

Section 100B (2)	Local Government Act 1972	The power to exclude from Committees, Sub-Committees, Council or Executive meeting agendas any information to be dealt with in a meeting from which the public are likely to be excluded
Section 100B (7)(c)	Local Government Act 1972	The authority to supply to any newspaper copies of documents supplied to Members of committees, sub-committees, Council or Executive meetings in connection with an item for consideration
Section 100C (2)	Local Government Act 1972	The officer to prepare a written summary of proceedings of committees, sub-committees, Council or the Executive from which the public were excluded
Section 100D (1)(a)	Local Government Act 1972	The officer to prepare a list of background papers for reports considered by committees, sub-committees, Council or the Executive. (See also General provisions regarding Background papers)
Section 100D (5)	Local Government Act 1972	The Officer to determine which documents constitute background papers and Section 100H - ability to charge for the provision of such documents
Section 100G	Local Government Act 1972	To maintain a register of the names and addresses of Members and membership of committees, lists of delegations and the like
Section 225 (1)	Local Government Act 1972	The officer to receive and retain statutory documents on behalf of the Authority
Section 233	Local Government Act 1972	The officer to receive documents required to be served on the Authority
Section 248	Local Government Act 1972	The officer responsible for the keeping of the roll of Freemen of the City
Schedule 12 - paragraphs 4(2)(b) and 4(3)	Local Government Act 1972	The officer responsible for the receipt of notices regarding address to which summons to meetings is to be sent
Schedule 14 - paragraph 25(7)	Local Government Act 1972	The officer responsible for the certification of true copies of resolutions
Section 2	Local Government And Housing Act 1989	The officer to hold on deposit the list of politically restricted posts and Section 2 - provision of certificates as to whether a post is politically restricted
Sections 15 to 17	Local Government And Housing Act 1989 Local Government (Committees and Political Groups) Regulations 1990	The officer to receive notices relating to the membership of political groups
	Local Government Act 2000	The officer responsible for ensuring a proper record is made of Executive decisions and that the document comprising the Authority's Forward Plan is published in accordance with the Local Authorities (Executive Arrangements)(Access to Information) (England) Regulations 2000

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	Local Government Act 2000	To make payments of relevant allowances in accordance with the Council's Members allowances scheme
	Civil Evidence Act 1995	To certify Council records for the purposes of admitting the document in evidence in civil proceedings
Section 88 (2)	Local Government Act 1972	The officer by whom a meeting of the Council for the election of the vacant office of Chair person of the Council may be convened
Section 96	Local Government Act 1972	The officer to whom general notices and recording of disclosures of interests under Section 94 should be given
Schedule 14 para. 25(7)	Public Health Acts 1875 – 1925	Certification of resolution under Public Health Acts 1875 – 1925
	Local Government Act 2000—Executive Arrangements (Decisions, Documents and Meetings) (England) Regulations 2000- <u>Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012</u>	The Proper Officer in relation to the 2012 00 Regulations

Part 3 - Responsibility for Functions

Corporate Director of Services and Neighbourhoods

A. General Powers:

1. The Corporate Director of Services and Neighbourhoods is authorised to discharge any function of Full Council, a Committee of the Council or of the Executive in relation to:
 - Client for Housing, Streetcare and Leisure
 - Housing Strategy
 - Homelessness, Allocations
 - Environmental Health
 - Regulatory Services
 - Cemeteries and Crematorium
 - Customer Services
 - ~~Shopmobility~~
 - Community Safety
 - Business Continuity Planning
 - Emergency Planning
 - Safeguarding Children
 - Policy and Partnerships including Community, Strategy, Engagement and Equalities
 - Performance Management and Review
 - Business improvement
 - Communications and Marketing
 - Health and Wellbeing

with exception of those matters where this constitution has directed that the delegated authority should not be exercised and that the matter should be referred to Full Council, a Committee of the Council or of the Executive for consideration.

2. The Corporate Director of Services and Neighbourhoods is responsible for all matters considered to be sensitive, contentious or doubtful, and will consult the Leader, Deputy Leader or relevant Cabinet Member and statutory officers as appropriate, and take urgent actions as necessary.

A. Proper Officer Responsibilities:

1. The Corporate Director of Services and Neighbourhoods is hereby appointed the Proper Officer in relation to: -

Section	Legislation	Function
	Public Health (Control Of Diseases) Act 1984	Corporate Director – Services and Neighbourhoods to appoint a suitably qualified person as the Council's Medical Advisor on Environmental Health and as Proper Officer for notifiable diseases
	Public Health (Infectious Diseases) Regulations 1988	Reporting of notifiable diseases
	Food Safety (General Food Hygiene) Regulations 1995 Food (England) Regulations 2006 General Food Regulations 2004	
	The Milk And Dairies (General) Regulations 1959	

Part 3 - Responsibility for Functions

17 and 37	Crime And Disorder Act 1998	Having regard to effect of the exercise of any function on the need to prevent crime and disorder and offending by children and young persons and Youth Justice System. (Duty on all Corporate Directors)
4	Regulatory Enforcement and Sanctions Act 2008	Lead Officer for the authority having regard to guidance and advice of the Local Better Regulation Office regarding Enforcement and Regulatory Powers.
Section 210 (6) and (7)	Local Government Act 1972	Transitional powers with respect of Charities

- The Corporate Director of Services and Neighbourhoods is authorised to enforce the provisions of the Environmental Protection Act 1990 where the City of Gloucester is the waste collection authority (Part II), principal litter authority (Part IV), waste collection authority (Part VIII).

C. Specific Powers:

- The Corporate Director of Services and Neighbourhoods has specific powers, legislative and delegated in respect of the following Legislation, Orders and Regulations. In addition, the Corporate Director of Services and Neighbourhoods will ensure compliance with all statutory amendments or modification of the legislation, orders and regulations or that have any effect by virtue of the European Communities Act 1972.
- To exercise, through Service Managers and professional officers, all enforcement, inspection, and legislative functions including issuing, transferring, varying statutory notices consents and licences and the refusal of a consent or licence.
- To deal with all other statutory and non-statutory matters and functions within the purview of the Directorate including matters relating to the following legislation (as amended):-

GCC Ref	Sub-Delegation Ref	Legislation
1.	E	Agriculture Act 1986
2.	E	Animal Boarding Establishments Act 1963
3.	CS	Anti Social Behaviour Act 2003 (except Part 8 High Hedges)
4.	E	Breeding and Sale of Dogs (Welfare) Act 1999
5.	E	Breeding of Dogs Act 1973, 1991
6.	E	Building Act 1984
7.	E	Caravan Sites Act 1968
8.	E	Caravan Sites and Control of Development Act 1960
9.	L	Charities Act 2006
10.	E	Clean Air Act 1993
11.	E & CS	Clean Neighbourhood and Environment Act 2005
12.	E F	Contaminants in Food (England) Regulations 1997, 2007, 2010
13.	E	Control of Dogs Order 1992
14.	E	Control of Pollution Act 1974, and (Amendment) Act 1989
15.	E	Criminal Damage Act 1971
16.	E CS L	Criminal Justice and Public Order Act 1994
17.	E CS L	Criminal Justice and Police Act 2001 (Sections 12-16 and 19-20)
18.	E CS L	Criminal Procedure and Investigation Act 1996
19.	E	Dangerous Wild Animals Act 1976
20.	E	Defective Premises Act 1972
21.	E	Dogs (Fouling Land) Act 1996 and Dogs (Fouling of Land) Regulations 1996

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22.	E	Energy Act 1976
23.	E	Environment Act 1995
24.	E	Environmental Damage (Prevention and Remediation) Regulations 2009
25.	E	Environmental Protection Act 1990 (as amended) <u>where the Council is the Enforcing Authority (Part I) or the local authority (Parts III and VII) including:</u> <ul style="list-style-type: none"> • Sections 6 and 7 - Granting of authorisations and conditions • Sections 8 and 12 - Revocation of authorisations • Sections 10 and 11 - Variation of authorisation and conditions • Section 13 - Enforcement Notices • Section 14 - Prohibition Notices • <u>Section 34 –Duty of care etc. as respects waste</u> • <u>Section 34A – Fixed penalty notices for certain offences under Section 34</u> • <u>Section 46 – receptacles for household waste</u> • <u>Section 47 – Receptacles for commercial or industrial waste</u> • Section 80 - Abatement Notices • Section 81 - Statutory Nuisance - Supplementary Provisions • Section 88 - Fixed Penalties re Litter • Section 99 - Shopping and Luggage Trolleys • Sections 149 and 150 - Control of Dogs • Schedule 1 Part 1 - Applications for authorisation further information • Part 2A
26.	E	European Communities Act 1972
27.	E	Farm and Garden Chemical Act 1967
28.	E	Food and Environment Protection Act 1985 (Part I) (Part III)
29.	E F	Food Safety Act 1990 (as amended) <ul style="list-style-type: none"> • Section 9 – Seizure and detention of food • Section 10 – Service of Improvement Notices • Section 12 – Service of Emergency Prohibition Notices • Section 29 and 30 – Taking of samples • Section 32 – Entry to premises • Section 49(3)(a) and (b) – Signing of documents
30.	E F	<u>Food Hygiene (England) Regulations 2006 (as amended):</u> <ul style="list-style-type: none"> • <u>Regulation 6 Hygiene Improvement Notices</u> • <u>Regulation 8 Hygiene Emergency Prohibition Notices</u> • <u>Regulation 9 Remedial Action Notices and Detention Notices</u> • <u>Regulation 12 Sampling</u> • <u>Regulation 14 Powers of Entry</u> • <u>Regulation 27 Certify food failing to meet food safety requirements</u>
31.	L	Gambling Act 2005
32.	E F	<u>General Food Regulations 2004</u>
33.	E	Hazardous Waste (England and Wales) Regulations 2005
34.	E	Health Act 2006 <ul style="list-style-type: none"> • Section 9 and Schedule 1 – Fixed penalties • Section 10 and Schedule 2 – Powers of Entry
35.	E	The Smoke-free (Premises and Enforcement) Regulations 2006
36.	E	The Smoke-free (Penalties and Discounted Amounts) Regulations 2007
37.	E	The Smoke-free (Exemptions and Vehicles) Regulations 2007
38.	E	The Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007
39.	E	The Smoke-free (Signs) Regulations 2007
40.	E	Health and Safety at Work etc Act 1974 To exercise the power of an Inspector specified in: - <ul style="list-style-type: none"> • Sections 20 and 25 of the 1974 Act;

Part 3 - Responsibility for Functions

		<ul style="list-style-type: none"> • Any Health and Safety Regulations and Sections 21 and 22 of the 1974 Act; • The provision of the Acts mentioned in Schedule 1 to the 1974 Act which are specified in the third column of that schedule and of the Regulations; • Orders or other instruments of a legislative character made of having effect under any provision so specified, as in force. • To institute proceedings pursuant to Section 38 of the 1974 Act.
41.	E	Highways Act 1835, 1864, 1980 and 1990
42.	E	Home Safety Act 1961
43.	L	House to House Collections Act 1939 and Regulations 1947
44.	E	Housing Act 1985
45.	E	Housing Act 1996
46.	E	Housing Act 2003
47.	E	Housing Act 2004
48.	E	Housing Grants Construction and Regeneration Act 1996
49.	E	Imported Food Regulations 1997
50.	E	Land Drainage Act 1976, 1991, 1994
51.	E	Environmental Impact Amendment (Local Drainage Improvement Works) Regulations 1994
52.	E	Law of Property Act 1925
53.	L	Licensing Act 2003
54.	L	Local Government (Miscellaneous Provisions) Act 1976, and 1982
55.	E	Local Government Act 1972 and 1985
56.	E	Local Government Act 2003
57.	E	Local Government and Housing Act 1989
58.	E	National Assistance Act 1948
59.	E	New Roads and Street Works Act 1991
60.	E	Noise Act 1996
61.	E	Noise and Statutory Nuisance Act 1993
62.	E F	<p><u>Official Feed and Food Controls (England) Regulations 2009 (as amended) as an Authorised Officer for the purpose of that Act to execute and enforce the Import Provisions in its area in relation to food (Regulation 24) and entitled to act on these matters below:</u></p> <ul style="list-style-type: none"> • <u>Regulation 30 Notice to detain, destruct, special treatment, re-dispatch and other appropriate measures</u> • <u>Regulation 35 Procurement of samples</u> • <u>Regulation 36 Analysis of samples</u> • <u>Regulation 37 Powers</u>
63.	L	Pedlars Act 1871
64.	E	Pet Animals Act 1951
65.	L	Police, Factories etc. (Miscellaneous Provisions) Act 1916
66.	E	Pollution Prevention and Control (England and Wales) Regulations 2000 (as amended)
67.	E	Pollution Prevention and Control Act 1999
68.	E	Prevention of Damage by Pests Act 1949
69.	E F	<p><u>Products of Animal Origin (Disease Control) (England) Regulations 2008 as amended as an Authorised Officer for the purpose of the Act and entitled to act on these matters below Part 4 Regulation 17 Powers of Inspectors</u></p>
70.	E F	<p><u>Products of Animal Origin (Import and Export) Regulations 1996 as amended as an Authorised Officer for the purpose of that Act and entitled to act on these matters below:</u></p> <ul style="list-style-type: none"> • <u>Regulation 6(2) Power of Entry</u> • <u>Regulation 6(3) Enforcement Powers</u> • <u>Regulation 13(2) Inspection and checking of imports under Part III Intercommunity trade</u>

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		<ul style="list-style-type: none"> • <u>Regulation 16(1) Consignments posing a risk to health and illegal consignments</u> • <u>Regulation 16(3) Notice to prohibit the movement</u> • <u>Regulation 16(4) Notice for destruction</u>
71.	E F	<p>Products of Animal Origin (Third Country Imports) (England) Regulations 2006 (as amended) as an Authorised Officer for the purpose of that Act and entitled to act on these matters below:</p> <ul style="list-style-type: none"> • <u>Regulation 8(1) Power of Entry</u> • <u>Regulation 8(2) Detention Notice</u> • <u>Regulation 24(2) Re-dispatch/Dispose</u> • <u>Regulation 25 Seizure Consignment/Dispose Notice dangerous to health</u>
72.	E	Public Health (Control of Diseases) Act 1984
73.	E	Public Health Act 1875, (Amendment Act 1890), 1936
74.	E	Public Health Acts 1936 and 1961
75.	E	Refuse Disposal (Amenity) Act 1978, Section 3(1)
76.	E	Regulatory Enforcement and Sanctions Act 2008
77.	CD (S&N)	Regulation of Investigatory Powers Act 2000
78.	E	Regulatory Reform (Housing Assistance) (England and Wales) 2002
79.	E	Reservoirs Act 1975
80.	E	Riding Establishment Acts 1964 and 1970
81.	E	Rights of Way Act 1990
82.	E	Rivers (Prevention of Pollution) Act 1951 (or 1961?)
83.	E	Rivers Pollution Act 1876
84.	E	Road Traffic Regulations Act 1984
85.	L	Scrap Metal Dealers Act 1964
86.	E	Slaughter of Animals Act 1958
87.	E	Slaughter of Poultry Act 1967
88.	E	Slaughterhouses Act 1974
89.	E	Sunbeds (Regulation) Act 2010
90.	E	Sunday Trading Act 1994
91.	E	Town and Country Planning (Assessment of Environmental Effects) Regulations 1988, SI 1988, No. 1199
92.	E	Town and Country Planning (Environmental Impact Amendment) (England and Wales) Regulations 1999
93.	E	Town and Country Planning Act 1971
94.	E	Town and Country Planning Act 1990
95.	E	Town and Country Planning General Development Order 1995
96.	L	Town and Police Clauses Acts 1847 and 1889
97.	E F	<u>The Trade in Animals and Related Products Regulations 2011</u>
98.	E F	<u>The Transmissible Spongiform Encephalopathies Regulations 2010</u>
99.	L	Transport Acts 1980, 1981 and 1985
100.	L	Vehicles (Crime) Act 2001
101.	L	The Motor Salvage Operators Regulations 2002
102.	E	Waste Management Licensing Regulations 1994
103.	E	Water Act 1989
104.	E	Water Act 2003
105.	E	Water Industry Act 1991
106.	E	Water Resources Act 1991 (particularly Section 105)
107.	E	Waterworks Clauses Act 1847
108.	E	Weeds Act 1959 c54
109.	E	Wildlife and Countryside Act 1981
110.	E	Zoo Licensing Act 1984

4. To exercise the functions of the Council in relation to matters relating to Customer Services.

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5. To approve funding bids for initiatives and work relating to services and neighbourhoods which may or may not involve match funding in consultation with the Corporate Director of Resources and the relevant Cabinet Member.
6. To authorise the use of directed surveillance and the use of covert human intelligence sources for partnership operations and in connection with the prevention and detection of crime against the authority in accordance with the Regulation of Investigatory Powers Act 2000 (RIPA).
7. The determination of expenditure under the approved youth policy, neighbourhood partnerships, community strategy and anti-poverty budgets after consultation with the relevant Cabinet Member.
8. The allocation and distribution of supplementary grants to voluntary, charitable and not for profit organisations in the City in addition to those approved annually by the Council, after consultation with the Cabinet.
9. The approval of Funding bids for Community Development which may or may not involve match funding in consultation with the Corporate Director of Resources and the relevant Cabinet Member.
10. The determination of applications for funding by voluntary and community groups within the budget and scheme of funding approved by Council current at the time in consultation with the relevant Cabinet Member.
11. The determination of development grants within the budget limits set by Council.
12. In the absence of the Corporate Director of Services and Neighbourhoods each Group Manager will take full responsibility for their area of service and where a Group Manager is also absent then providing that other Group Managers within the Directorate are qualified, trained, experienced and competent they may deputise for the Group Manager in their absence.
13. To exercise the functions of the Council in relation to the strategies and policies regarding information management.
14. To have overall responsibility for Freedom of Information including training, public information and determining exemptions where necessary.
15. In accordance with approved Housing strategies, Council Policies, Financial Regulations and Contract Standing Orders, to:
 - (a) exercise the functions of the Council as Local Housing Authority except the provision of landlord services;
 - (b) approve the purchase or sale (a share or outright), of any dwelling, as may be required, in accordance with:-
 - (i) supporting priorities identified in the Housing Strategy;
 - (ii) assisting a household threatened with homelessness, where other options are demonstrated not to be feasible;
 - (iii) regeneration priorities supported by the Council;
 - (iv) offers arising from Statutory Provision or Lease including 'Right to Buy', 'Right of First Refusal';
 - (v) the acquisition and disposal strategy of the Council.

and in consultation with Corporate Director of Regeneration and the ~~Strategic Property, Estates and Valuation Service~~ **Asset** Manager.

approve the purchase of dwellings for Affordable Housing initiatives including the use of commuted sums and in consultation with the Corporate Director of Regeneration and

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the ~~Strategic Property, Estates and Valuation Service~~ Asset Manager where within budget;

- (c) approve the purchase of dwellings purchased under the Council's Right to Buy and Shared Ownership Scheme for onward lease or sale where within budget.
 - (d) prepare tender documents for Housing Needs Assessments or complementary research as permitted by legislation.
 - (e) prepare tender brief, assessment bids in accordance with 'Best Value' principles, to select RSLs for development opportunities or preferred partner assessment.
 - (f) prepare tender documents for and procurement of services to assist with Council's Statutory duties under Homelessness legislation.
 - (g) in accordance with the Council's priorities influence Section 106 negotiations by advising Planning Officers of requirement for Affordable Housing on housing development sites.
 - (h) provide responses to the Homes and Communities Agency regarding RSL stock disposals.
16. All non-contentious or urgent matters relating to Customer Services, Leisure, Cemeteries and Crematoria, Business Planning and Performance, Shopmobility Policy Making, Community Development and Partnerships.
 17. The approval of the provision of recreational leisure, sporting activities, exchanges and entertainment.
 18. To vary charges for the hiring or letting of all leisure facilities within defined total financial targets.
 19. The determination of all sports grant applications under £5,000 in value after consultation with the relevant Cabinet Member.
 20. The management and approval of the provision and uses of the Council's disused burial grounds.
 21. To liaise with Gloucester City Homes in respect of the functions of the Council as Local Housing Landlord and in accordance with the Council's Housing Strategy and Policies
 22. The preparation of tender bids for non-construction related housing contracts
 23. To approve the transfer of mortgage property on marital break-up or death or other family arrangements after consultation with the Group Manager Legal and Democratic Services. On transfer of the mortgage the Corporate Director of Resources will also be consulted.
 24. To exercise the Council's functions in respect of Safeguarding Children
 25. To deputise, in the absence of the Corporate Director of Services and Neighbourhoods, in matters relating to the activities of the service group.

Comment [s11]: Moved following deletion of GM post

D. Sub-delegations:

In addition to the sub-delegations detailed below, which are standing sub-delegations to specific posts, The Corporate Director of Services and Neighbourhoods may make further sub-delegations which must fulfill the following criteria:

- (a) be formally offered to and accepted by a named officer;
- (b) be offered only if the Corporate Director of Services and Neighbourhoods is satisfied that the delegation of powers is commensurate with the qualification, training, experience and competence of the named officer;

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- (c) be limited for a specific period and / or for a specific purpose;
- (d) be made in writing with sufficient detail to ensure clear understanding and any limitations of the delegated powers;
- (e) be recorded in a register held by the Group Manager Legal and Democratic Services;
- (f) any matters under this delegation, which may be interpreted, as being sensitive, contentious or doubtful be subject to prior consultation with the relevant Cabinet Member and Leader and/or Deputy Leader of the Council.

E. Sub-delegation to Group Manager Housing and Neighbourhood Services

To deal with all non-contentious or urgent matters relating to the Council's Housing and Streetcare services.

E.1 Housing

- (a) To exercise the functions of the Council as Housing Landlord in accordance with the Council's Housing Strategy and Policies.
- (b) To Tender for complementary work as permitted by legislation.
- (c) To approve applications from Council tenants for the purchase of their dwellings within the right to buy procedure.
- (d) To deal with the selection of Tenants and the allocation of permanent accommodation in the discharge of the Council's obligations.
- (e) To make such arrangements as are considered necessary to discharge the Council's functions in relation to homeless persons.
- (f) The expenditure of Government grants related to provision of services required to assist with Council's statutory homelessness duties as permitted by legislation.
- (g) The allocation of permanent accommodation in "left in occupation" cases.
- (h) To determine appeals as required under the Allocation of Housing and Homelessness (Review Procedures) Regulations 1999 under part VII of the Housing Act 1996 (Homelessness) in consultation with the Group Manager Legal and Democratic Services.

E.2 Streetcare

- (a) To exercise the City Council's responsibilities regarding highways, sewers and sewerage, residual traffic management, local public transport, agency agreements with the County Council other functions, not related to highways.
- (b) To liaise with the County Council on those matters referred in paragraph (a) and other functions not related to highways.
- (c) To exercise the Council's powers in respect of street furniture and informative signs.
- (d) To deal with matters in respect of tree planting, felling and lopping (open spaces and public areas).
- (e) To confirm road traffic regulation orders where no objection(s) has been received, in agreement with the Highways Agency.
- (f) The making of agreements for the execution of highway works.
- (g) To exercise the Council's powers relating to the removal of things so deposited in the highways as to be a nuisance.
- (h) To exercise the Council's powers relating to obstruction of Highways.
- (i) The implementation of temporary traffic regulation schemes and orders.

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- (j) To respond to consultations upon the Statutory Waste Management Strategy, after consultation with the relevant Cabinet Member.
- (k) In relation to the Environmental Protection Act 1990 (Control of Dogs), the power to adjust the recovery charges for the collection of stray dogs as and when necessary and the discretion to waive or reduce the charge in relation to genuine cases of hardship, the unemployed, senior citizens and persons on state benefit.
- (l) The management and approval of the provision and uses of the Council's country parks, parks, playing fields, allotments and open spaces.
- (m) To enter into allotment tenancy agreements, subject to such agreements being in a form approved by the Group Manager Legal and Democratic Services.

F. Sub-delegation to Group Manager, Environmental Health and Regulatory Services

1. All non-contentious or urgent matters relating to Environmental Health and Regulatory Services including Private Sector Housing and Commercial Services; Housing Standards; Adaptation Grants for the Disabled; Public and Environmental Health; Food Safety and Hygiene; Drainage; Flood Protection; Pollution and Noise Control; Contaminated Land; Licensing; Pest Control; Dog Control; Health and Safety at Work; Caravan and Camping; Park Homes; Shops and Sunday Trading; "Clean Neighbourhoods and Environment"; Emergency Planning and Business Continuity; Private Sector Housing assistance including grants and loans; Empty Homes Strategy.
2. All urgent, sensitive and contentious licensing and enforcement matters in consultation with the Director of Services and Neighbourhoods and the Chair, Vice Chair and SpokesPersons of the Licensing and Enforcement Committee.
3. To deal with all non-contentious or urgent matters relating to community safety including:
 - (a) The consideration and making of designated public place orders pursuant to Sections 12-16 of the Criminal Justice and Police Act 2001.
 - (b) All matters relating to the issue of Anti-Social Behaviour Orders and Anti-Social Behaviour Contracts as well as those matters relating to Criminal Related Anti-Social Behaviour Orders within the policies and procedures of the Council.
 - (c) All matters relating to the issuing and serving of Crack-House Closure Orders.
 - (d) All matters relating to the issuing of Public Dispersal Orders and Alcohol Disorder.
1. The Group Manager, Environmental Health & Regulatory Services, is hereby appointed the Proper Officer in relation to: -

Section	Legislation	Function
	Food Safety Act 1990	All purposes relating to and including authority to authorise such other officer(s) as the Group Manager, Environmental Health Manager & Regulatory Services deems appropriate to exercise the powers under the Food Safety Act 1990
13(2)(a) and 69(2)(a) 304 of Part 15	Licensing Act 2003 and Gambling Act 2005	Authorised person as defined by, and responsible to the Council for carrying out its responsibilities as a Licensing Authority under the Acts

Part 3 - Responsibility for Functions

204(3)	Local Government Act 1972	
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The Group Manager, Environmental Health & Regulatory Services is hereby authorised to: -

3. Enforce the provisions of the Environmental Protection Act 1990 where the City of Gloucester is the enforcing authority (Part I), a local authority (Part III and Part VIII).
4. Sub-delegate to specific officers powers to exercise the specific provisions, powers and functions of the legislation marked "E", "L", "F" and "CS" in the table of Legislation detailed in paragraph 3. C (Specific Powers)_above and will abide by any modification or re-enactment; new legislation and /or regulations made thereunder or that have any effect by virtue of the European Communities Act 1972.
5. Enforce the provisions of the legislation marked "E" in the table of Legislation detailed in paragraph C: Specific Powers above and will abide by any modification or re-enactment; new legislation and/or regulations made thereunder or that have any effect by virtue of the European Communities Act 1972.
6. Sign documents confirming that such officers mentioned in "G" below are duly authorised to act in any capacity determined by the Group Manager within the purview of Environmental Health and Regulatory Services.
7. Exercise the functions of the Council in respect of Environmental Health.
8. Take action where housing does not meet the standards laid down in current legislation and statutory housing codes
9. Exercise the functions relating to health and safety at work specified in Paragraph 3 of Schedule to the Functions Regulations.
10. Approve arrangements for the disposal of the dead pursuant to the provisions of the Public Health (Control of Diseases) Act 1984.
11. Deal with all matters relating to business continuity and emergency planning.
12. Make discretionary and mandatory house renovation grants and approve action for breach of grant conditions (jointly with the Group Manager Legal and Democratic Services).
13. Determine the allocation of regeneration budgets in consultation with the relevant Cabinet Member, Leader and/or Deputy Leader of the Council.
14. Set the fees for Housing in Multiple Occupation (HMO) Licences, under the Housing Act 2004, in consultation with the Cabinet Member for Housing and Health.

F.1 Sub-delegation to Environmental Health Staff

1. The Corporate Director of Services and Neighbourhoods and the Group Manager, Environmental Health and Regulatory Services hereby delegates to those officers shown under the "Scheme of Delegated Powers" (Authorisations) providing that the delegation is commensurate with the qualification, training, experience and competence of the postholder, all the necessary powers in respect of the legislation marked "E" in the Table of Legislation detailed in paragraph 3.C (Specific Powers) above.
2. Every officer shown in the "Scheme of Delegated Powers" (Authorisations) will be issued with a warrant determining the powers and responsibilities required under the legislation.

F.2 Sub-delegation to Food and Licensing Service Manager

1. As the authorised person as defined by Sections 13(2)(a) and 69(2)(a) of the Licensing Act 2003 and section 304 of Part 15 of the Gambling Act 2005, to be responsible to the Council

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for carrying out its responsibilities as a Licensing Authority.

2. To appear, as witness on behalf of the Council, in the Magistrates' Court in respect of the Licensing Act 2003, the Gambling Act 2005 and that legislation shown marked "L" and "F" in the Table at paragraph 3.C (Specific Powers) above in consultation with the Group Manager Legal and Democratic Services.
3. To exercise the Council's right of entry to premises under section 179 of the Licensing Act 2003 and section 317 of Part 15 of the Gambling Act 2005, in order to investigate licensable activities.
4. To issue Personal and Premises Licences and Club Premises Certificates in accordance with the Licensing Act 2003 and deal with minor variations to Premises Licences and Club Premises Certificates as prescribed by legislation; except in those cases reserved for the Licensing and Enforcement Committee. i.e. where there is an objection or a Member requests a particular issue to be considered by the committee.
5. To issue Premises Licences and Permits in respect of the Gambling Act 2005.
6. To receive notification of temporary events where there are no objections received from the Chief Constable of Gloucestershire Constabulary. However, if an objection is received within the due time, authority is hereby given to serve a Counter Notice and / or arrange an urgent meeting of the Licensing sub-committee sitting as a Hearing Panel, as appropriate under the legislation.
7. To issue to fit and proper persons Hackney Carriage and Private Hire Licences where there are no criminal records revealed by the Criminal Records Bureau (CRB) or by the Driver and Vehicle Licensing Agency (DVLA) in respect of spent or unspent motoring offences.
8. To suspend Hackney Carriage and Private Hire Licences and, if necessary, to arrange a meeting of the Licensing sub-committee sitting as a Hearing Panel, as appropriate under the legislation with powers to revoke licences.
9. In relation to the powers and functions, the issue, transfer or variation of statutory notices, consents and licences, and the refusal of a consent or licence.
10. The consideration and approval of street collection permits, House to House Collections, Small Society Lotteries, Gaming Machine permits, Amusements (with prizes) and other licences as provide for within legislation.
11. The consideration and making of Designated Public Place Orders pursuant to Sections 12-16 of the Criminal Justice and Police Act 2001.
12. The determination of Licensing Fees in consultation with the Financial Services Manager.
13. **To suspend Premises Licences and Club Premises Certificates following non-payment of annual fees under section 55A and 92A of the Licensing Act 2003.**

~~G. Sub-delegation to Group Manager, Customer Services and Business Improvement~~

~~All non-contentious or urgent matters relating to Customer Services, Leisure, Cemeteries and Crematoria, Business Planning and Performance, Shopmobility Policy Making, Community Development and Partnerships.~~

~~The Approval of the provision of recreational leisure, sporting activities, exchanges and entertainment.~~

~~To Vary charges for the hiring or letting of all leisure facilities within defined total financial targets.~~

~~The determination of all sports grant applications under £5,000 in value after consultation with the relevant Cabinet Member.~~

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- ~~5. The management and approval of the provision and uses of the Council's disused burial grounds.~~
- ~~6. To liaise with Gloucester City Homes in respect of the functions of the Council as Local Housing Landlord and in accordance with the Council's Housing Strategy and Policies~~
- ~~7. The preparation of tender bids for non construction related housing contracts⁸. To approve the transfer of mortgage property on marital break up or death or other family arrangements after consultation with the Group Manager - Legal and Democratic Services. On transfer of the mortgage the Corporate Director of Resources will also be consulted.~~
- ~~9. To exercise the Council's functions in respect of Safeguarding Children~~
- ~~10. To deputise, in the absence of the Corporate Director of Services and Neighbourhoods , in matters relating to the activities of the service group.~~

H. Sub-delegation to Communications and Marketing Service Manager

1. All non-contentious or urgent matters relating to internal and external communications, promotions, and marketing of the city.
2. To deputise, in the absence of the Corporate Director of Resources, in matters relating to communications and marketing.

I. Sub-delegation to Consultant in Communicable Disease Control

1. The CCDC, being a registered medical practitioner, is hereby appointed the Proper Officer in relation to Sections 11, 35(1) and (2) and 36 of the Public Health (Control of Diseases) Act 1984, and Section 47 of the National Assistance Act 1948.
2. In the event of the CCDC being absent or otherwise unable to act, any registered medical practitioner for the time being acting as his Deputy is hereby appointed the Proper Officer.

J. Sub-delegation to Cemeteries and Crematorium Service Manager

1. To approve Deeds of Grant in respect of sale of burial rights at the Council's cemeteries.
2. To approve arrangements for the disposal of the dead pursuant to the provisions of the Public Health (Control of Diseases) Act 1984.
3. To take action to enforce the provisions of the Council's cemetery byelaws and cemeteries rules and regulations.

K. Sub-delegation to Business Planning and Performance Service Manager

1. The negotiation and approval of performance through business improvement plans and annual reports for Gloucester City Homes, Aspire and Enterprise.

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Corporate Director of Regeneration

A. General:

1. The Corporate Director of Regeneration is authorised to discharge any function of Full Council, a Committee of the Council or of the Executive in relation to: -

- Forward planning
- Economic Development
- Regeneration and Culture (Marketing Gloucester)
- Museums and Heritage
- Development Control
- Building Control
- Building Design
- Property management
- Facilities management (including catering)
- Off Street Parking and Car Parking
- Markets and Street Trading
- Administration
- **Shopmobility**

with exception of those matters where this constitution has directed that the delegated authority should not be exercised and that the matter should be referred to Full Council, a Committee of the Council or of the Executive for consideration.

2. The Corporate Director of Regeneration is responsible for all matters considered to be sensitive, contentious or doubtful, and will consult the Leader, Deputy Leader or Executive Member and statutory officers as appropriate, and take urgent actions as necessary.

B. Proper Officer Responsibilities:

1. The **Corporate Director of Regeneration** is hereby appointed the Proper Officer in relation to: -

Section	Legislation	Function
Section 191	Local Government Act 1972.	Appointing officer
Section 20	The Party Wall Act 1996	Appointing officer
	The Building Act 1984	Action / enforcement provisions
	Building Regulations 2010 (as amended)	Action / enforcement provisions
Section 37	The Public Health Amendments Act 1890	Action / enforcement provisions
Section 20	The Building (Approved Inspectors, etc.) Regulations 2010	Action / enforcement provisions
Sections 17 and 37	Crime And Disorder Act 1998	Having regard to effect of the exercise of any function on the need to prevent crime and disorder and offending by children and young persons (<i>Duty on all Corporate Directors</i>)
	Emergency Workers (Obstruction) Act 2006	Action / enforcement provisions
	The Building (Local Authority Charges) Regulations 2010	Appointing officer

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Subject to delegated powers in respect of Building Control matters being exercised only, where appropriate, in consultation with a qualified Building Control officer.

C. Specific Powers:

- (a) To approve grants and loans within the Economic Development budget provisions after consultation with the relevant Cabinet Member.
- (b) To approve Funding bids for regeneration, after consultation with the Corporate Director of Resources and the relevant Cabinet Member.
- (c) To determine plans under the Building Act 1984, and Regulations and associated legislation, the determination of relaxations and type relaxations under the Building Regulations and to approve the Building Regulation system and type approvals under the Local Authority National Type Approval Consortium scheme.
- (d) To exercise the powers and functions of the Council relating to charging of fees under the Building (Local Authority Charges) Regulations 2010 and Planning Legislation.
- (e) To set fees as required under The Building (Local Authority Charges) Regulations 2012
- (f) The power to determine what is a County matter pursuant to Schedule 1 of the Town and Country Planning Act 1990 and any amending legislation and to comment on such matters, subject to consultation with the Planning Committee in any case of doubt.
- (g) The power to determine details submitted pursuant to Conditions.
- (h) The power to determine minor variations of a non-controversial nature to approved plans.
- (i) The power to determine applications for non-material amendments submitted under Section 96A of the Town and Country Planning Act 1990.
- (j) The power to provide a screening opinion under Regulation 5; require an environmental impact assessment under Regulation 7; provide a scoping opinion under Regulation 13; and carry out all publicity and other action pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.
- (k) To determine planning applications which are subject to prior agreements under Section 106 of the Town and Country Planning Act 1990.
- (l) To determine jointly with the Group Manager Legal and Democratic Services the wording of, and completion of agreements under Section 106 of the Town and Country Planning Act 1990.
- (m) To determine applications pursuant to Sections 191 and 192 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 for certificates of lawfulness of existing or proposed use or development.
- (n) To serve notices under Section 35 and 36 of the Building Act 1984 and under the Building Regulations 2010.
- (o) To take appropriate action under and to enforce the provisions of the Building Act 1984, the Building Regulations 2010 (as amended), Section 37 of the Public Health Amendments Act 1980, Section 20 of the Building (Approved Inspectors, etc.) Regulations 2010 (as amended), and section 317 of the Housing and Regeneration Act 2008.
- (p) To take appropriate action under and enforce the provisions of Section 29 of the Local Government (Miscellaneous Provisions) Act 1982 (enabling works to be undertaken to secure unoccupied or vacant premises, the securing of dangerous structures and the boarding up of premises at work).
- (q) The power to deal with Dangerous Buildings under Sections 77 and 78 of the Building Act 1984.

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- (r) The determination of all forms of planning and other applications, and all forms of consent and other notifications (except as set out in paragraph (r) below) submitted under the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 including:
- Outline planning and reserved matters applications and any subsequent amendments.
 - Renewals of planning permission and any subsequent amendments.
 - Removal/variation of planning conditions.
 - Advertisement consent.
 - Lawful Development Certificates.
 - Demolition Consent.
 - Responses to proposals for Development by Government Departments under Circular 02/2006 – Crown Application of the Planning Acts.
 - Representations on applications for Goods Vehicle Operating Licences.
 - Listed Building Consent.
 - Conservation Area consent.
 - Responses to consultations from neighbouring local authorities.
- (r) Subject to prior consultation with the Group Manager Legal and Democratic Services, to take the following action under the provisions of the Town and Country Planning Act 1990 (as amended) **and the Planning (Listed Building and Conservation Areas) Act 1990** by ~~the Planning and Compensation Act 1991, and the Planning (Listed Buildings and Conservation Areas) Act 1990:~~
- (i) The service of **Completion Notices**, Planning Contravention Notices, Enforcement Notices, Breach of Condition Notices, Notices of Intended Entry, Section 215 Notices and Requisitions for Information (~~Town and Country Planning Act 1990~~).
 - (ii) To serve Discontinuance Notices **and exercise the Council's powers of** ~~for advertisements and to institute proceedings against fly posting, including the removal of~~ **and obliteration of posters and placards in respect of unauthorised advertisements** (Sections 224 and 225 **A – K**) ~~of the Town and Country Planning Act 1990~~ (as amended).
 - (iii) To serve, and unless objections are received, confirm Tree Preservation Orders (~~Town and Country Planning Act 1990~~).
 - (iv) To serve Tree Replacement Notices under Section 207 (~~Town and Country Planning Act 1990~~) (as amended).
 - (v) To serve Stop Notices under ~~S.183 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1994)~~ and Temporary Stop Notices under ~~(Sections 183 and 171E to 171H of the Town and Country Planning Act 1990 (as amended by Part 4 of the Planning and Compulsory Purchase Act 2004)~~.
 - (vi) To serve Listed Building Enforcement notices under S.38 of the Planning (Listed Building and Conservation Areas) Act 1990.
 - (vii) To serve notices requiring urgent works to unoccupied Listed Buildings under S.54 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- (s) With the exception of proposals falling within 1 and taking into account the provisions of 2 below, the Corporate Director of Regeneration, who may delegate the authority to the Group Manager, Planning and Economy and Development Control Service Manager, be authorised to determine all applications and submissions for Planning permission, approval of reserved matters, advertisement consent, certificates of lawful use or development, prior approval applications, Listed Building Consents, Conservation Area Consents, all consents relating to

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trees, consultations with other authorities and any similar applications made under the principal Planning Acts and associated legislation.

1. The following types of application are not to be approved under delegated powers:

- (i) Applications submitted by or on behalf of the City Council, or for development on Council owned land or where the Council has a direct interest, **except where no objections are received.**
- (ii) Applications submitted by a serving Member or Officer of the Council.
- (iii) Applications, which constitute a significant departure from the most up to date Local Plan that is formally approved and adopted by the Council for Development Control purposes.
- (iv) Applications for 50 or more new houses/flats.
- (v) Proposals which entail more than 1000 square metres of gross floorspace.
- (vi) Buildings or structures which exceed 15 metres in height.
- (vii) Applications where Officers are recommending an agreement under S.106 of the Town and Country Planning Act 1990 with the exception of Agreements which relate to the collection and administration of contributions for open space which accord with Local Plan policy and associated Supplementary Planning Guidance.
- (viii) Applications which are accompanied by an Environmental Assessment.
- (ix) Applications for change of use to hot food takeaway, **except where no objections are received.**
- (x) **Applications for a change of use to Class A2(c) within the Town and Country Planning (Use Classes) Order 1987, where Officer recommendation is for approval.**
- (xi) Applications for the demolition of a listed building.
- (xii) Applications for the development that significantly affects the setting of a grade 1 or 2* Listed Building or a Scheduled Ancient Monument.
- (xiii) Applications for the removal of trees protected by a Tree Preservation Order (except where exempted by the Act) where there are objections received.

2. The following provisos apply:

- (i) Decisions must pay due regard to the provisions of the Local Plan, other local Planning Guidance, all relevant legislation, national Planning Policy Guidance, Circulars, Regulations and all other relevant material considerations.
- (ii) All Councillors will be notified of all applications received through the weekly list.
- (iii) Only the relevant Ward Members where the application site is located plus Members in adjacent Wards where the application might have an impact, the Chair or Vice Chair of the Planning Committee or the Party Spokespersons are able to refer an application to Committee.
- (iv) Any Councillor wishing to refer a planning application to Committee must submit a pro-forma request slip within 28 days of the consultation period commencing. If the request slip is not submitted within this timescale then the application cannot be referred to Committee except in exceptional circumstances (for example, an application is particularly controversial or significant) and where it is agreed by one of the following; the Corporate Director of Regeneration, the Group Manager, Planning and Economy, the Development Control Service Manager, the Chair of the Planning Committee or Party Spokespersons.

Comment [s12]: CEWG – 19.02.13

Comment [s13]: CEWG – 19.02.13

Comment [s14]: CEWG asked (19.02.13) for Planning Committee to have control of applications for change of use to betting shops or 'payday loan'-type shops. These are likely to fall within Class A2(c). Financial and professional services "Use for the provision of—
 (a) financial services, or
 (b) professional services (other than health or medical services), or
 (c) any other services (including use as a betting office) which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public."

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- (v) The Corporate Director of Regeneration, the Group Manager, Planning and Economy and the Development Control Service Manager will use their discretion to refer any matter to the Planning Committee which would raise sensitive issues, or where it would be otherwise be beneficial for the decision to be made by Members.
- (t) In relation to Car Parking and subject to the service level/agency agreement with the Highway Authority (Gloucestershire County Council), to negotiate and complete any necessary service level agreements, agency arrangements, contracts with service providers (e.g. parking monitoring, ticketing) and the creation of an appropriately expanded and refocused City Council based parking service.
- (u) To make such Orders as are appropriate and required in consultation with the Leader in relation to public car parking.
- (v) To exercise the Council's powers under Part 8 of the Anti-Social Behaviour Act 2003 in relation to high hedges.

NOTE:

1. The exercise of delegated power by the Corporate Director of Regeneration, the Group Manager, Planning and Economy and/or the Development Control Service Manager pursuant to paragraphs q, r and s above shall be reported regularly to the Planning Committee.

D. Sub-delegations:

In addition to the sub-delegations detailed below, which are standing sub-delegations to specific posts, The Corporate Director of Regeneration may make further sub-delegations which must fulfill the following criteria:

- (a) Be formally offered to and accepted by a named officer.
- (b) Be offered only if the Corporate Director of Regeneration is satisfied that the delegation of powers is commensurate with the qualification, training, experience and competence of the named officer.
- (c) Be limited for a specific period and / or for a specific purpose.
- (d) Be made in writing with sufficient detail to ensure clear understanding and any limitations of the delegated powers.
- (e) Be recorded in a register held by the Group Manager Legal and Democratic Services.
- (f) Any matters under this delegation, which may be interpreted, as being sensitive, contentious or doubtful be subject to prior consultation with the relevant Cabinet Member and Leader and/or Deputy Leader of the Council.

E. Sub-delegation to Group Manager, Planning and Economy

- (a) All non-contentious or urgent matters relating to the Council's Development and Building Control Services.
- (b) All matters relating to the consent, retention or removal of Hedgerows; and the planting, felling and lopping of trees (private land).
- (c) All matters relating to footpaths and Bridleways.
- (d) To engage consultants and experts in respect of research, inquiries and appeals in accordance with Contract Standing Orders.
- (e) The Chief Executive has additionally delegated powers under the Proper Officer provisions relating to the Corporate Director of Regeneration, to the Group Manager, Planning and

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Economy in respect of Development Control and Building Control (in consultation with a qualified Building Inspector).

- (f) All non-contentious or urgent matters relating to the Local Development Framework; Climate Change; Nature and Biodiversity; Landscape and Public Realm Design; Heritage and Conservation; Archaeology; Monuments; Economic Development; Environmental Enhancement Schemes and Community Regeneration.

E1. Sub-delegation to Building Control Services Manager

- (a) The Chief Executive has delegated powers under the Proper Officer provisions relating to the Corporate Director of Regeneration, to the Building Control Services Manager, in respect of Building Control matters.
- (b) To exercise the powers to serve notices under Sections 35, 36, 77 and 78 of the Building Act 1984 subject to maintaining a record of such notices and ensuring the Director Regeneration and the Group Manager Planning and Economy are kept informed.
- (c) To enforce and exercise the powers to set, amend and revise the building control fees in relation to all building control matters covered under The Building (Local Authority Charges) regulations 2010, subject to consultation with Director Regeneration and the Group Manager Planning and Economy regarding any changes required at the annual review.

E2. Sub-delegation to Development Control Services Manager

- (a) The Chief Executive has delegated powers under the Proper Officer provisions relating to the Corporate Director of Regeneration, to the Development Control Services Manager, in respect of Planning matters.
- (b) To exercise the powers to serve notices and issue decisions, as set out in Section C paragraphs(f), (g), (h), (i), (j), (k), (l), (m), (r) and (s) out above, at all times keeping the Corporate Director of Regeneration and Group Manager Planning and Economy advised on contentious and sensitive matters.
- (c) **To agree minor variations to agreements under Section 106 of the Town and Country Planning Act 1990, in consultation with the Chair of Planning Committee.**

E3. Sub-delegation to Environmental Planning Service Manager

- (a) In consultation with the Cabinet Member with the portfolio of Heritage and Leisure approve and sign-off historic building grants and repairs to monument grants.
- (b) To clean-up and maintain and otherwise keep in good order historic monuments and historic buildings.
- (c) To make and, unless objections are received, confirm, Tree Preservation Orders under the Town and Country Planning Act 1990 (as amended).

G. Sub-delegation to Group Manager, Cultural Services

All non-contentious or urgent matters relating to Cultural Services ~~and Tourism~~ including matters and services concerning The Guildhall; The City Museum and Art Gallery; **Folk Museum, Blackfriars** and The Tourist Information Centre.

- (a) The approval of the provision of cultural and tourist activities, ~~exchanges and~~ entertainment **and events**.
- (b) To make acquisitions of Museum exhibits within the current collecting policy guidelines.
- (c) To purchase artefacts within approved budgets up to a sum of £5,000 and above £5,000 after consultation with the relevant Cabinet Member.

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- (d) The determination of all arts grant applications under £5,000 after consultation with the relevant Cabinet Member.

H. Sub-delegation to Group Manager, Property and City Centre Services

All non-contentious or urgent matters relating to the Council's non-housing corporate property, capital projects, property maintenance, off-street parking, the market services of the Council and the facilities management of the Docks offices

- (a) The approval, withdrawal or refusal of applications for street trading consents including variation of charges within overall financial targets.
- (b) To manage the letting of accommodation at the North Warehouse, such authority to including determination of "free uses".
- (c) To approve the provision, maintenance and disposal of the Council's administrative and operational buildings.
- (d) To deal with all matters relating to temporary road closures including giving public notice.

I. Sub-delegation to Asset Manager

- (a) To enter into negotiations for the sale of freehold; short and long leasehold and licence interests in Council land and buildings.
- (b) To approve the acquisition and disposal of property acquired for the general benefit, improvement and development of the City, in accordance with the Council's policies and financial provisions made for the purpose, after consultation with the Corporate Director of Resources and relevant Cabinet Member, Leader and/or Deputy Leader of the Council.
- (c) To approve the appropriation of land and/or buildings from one Council purpose or function to another and the terms thereof.
- (d) To maintain an Asset Register of all property, land and other significant asset ensuring individual Asset Management Plans and corporate working through a Corporate Asset Management Group.
- (e) To engage specific expertise and assistance as and when required in respect of surveys for individual Asset Management Plans and financial and environmental evaluations.
- (f) To ensure statutory testing is undertaken as required by legislation and to maintain records relating to each property asset of the Council.
- (g) To act as a Construction, Design and Management Contract Co-ordinator.

J. Sub-delegation to Market and City Centre Service Manager

- (a) To vary standard fees and charges in the Market Service for business start up purposes.**

Part 3 - Responsibility for Functions

Group Manager Legal and Democratic Services (Monitoring Officer)

A. General:

All non-contentious or urgent matters relating to the legal services of the Council and in relation to fulfilling the role of Monitoring Officer and Legal advisor to the Council

B. Proper Officer Responsibilities:

1. The Group Manager Legal and Democratic Services is hereby appointed the Proper Officer in relation to: -

Section	Legislation	Function
Section 5	Local Government and Housing Act 1989	The officer to be designated Monitoring Officer (see also Monitoring Officer's Protocol in Part 5 of the Constitution)
Section 19	Land Charges Act 1975	The officer to act as Local Registrar as defined in Section 3 of the Land Charges Act 1975 and to administer the Council's Land Charges Register
Section 41	Local Government (Miscellaneous Provisions) Act 1976	The officer to certify copies of any resolution, order, report or minutes of proceedings of the Council as evidence in any legal proceedings
Section 16	Local Government (Miscellaneous Provisions) Act 1976	Notices requiring details of interest in land
Section 29	Localism Act 2011	To establish and maintain the Members' Register of Interests and ensure it is available for public inspection
Section 100F (2)	Local Government Act 1972	The officer to decide which documents are not, by virtue of containing exempt information, required to be open to inspection
Section 234 (1) and (2)	Local Government Act 1972	The officer to authenticate documents on behalf of the Council
Section 229 (5)	Local Government Act 1972	The officer to certify photographic copies of documents
Section 236 (10)	Local Government Act 1972	The officer responsible for forwarding Council byelaws to the County Council
Section.223	Local Government Act 1972 County Courts Act 1984	Authorising officers to attend court and appear on behalf of the Council under the Local Government Act 1972 and the County Courts Act 1984
Section 238	Local Government Act 1972	The officer to certify printed copies of byelaws
	Local Government (Contracts) Act 1997 and Regulations	Certification of relevant powers to enter into contracts. (Authorised and appointed jointly with the Corporate Director of Resources)
	Freedom of Information Act 2000	Determination of appeals against refusal to provide information
Section 1 (1)	Data Protection Act 1998	To act as the Council's Data Controller
	Local Government Act 2000	To ensure that copies of the constitution are available for inspection

Part 3 - Responsibility for Functions

2. The Group Manager, Legal and Democratic Services is hereby designated as the Council's Data Protection Officer pursuant to the Data Protection Act 1998.
3. The Group Manager Legal and Democratic Services as "Monitoring Officer" is hereby designated the qualified person for the purposes of determining whether disclosure of particular information under the Freedom of Information Act 2000 would be likely to prejudice the effective conduct of public affairs.
4. The Monitoring Officer is hereby empowered to correct punctuation, typographical, grammatical and clerical errors in the Constitution. In addition the Monitoring Officer may also approve and update references to legislation or where officer titles and responsibilities change due to organisational re-organisation and to correct minor amendments and adjustments to the Constitution which lead to greater clarity but which do not affect the meaning of the Articles and Rules of the Constitution.
5. The Monitoring Officer is also empowered to amend the Scheme of Delegation in order to reflect the current political management structure of the Council and to reflect appointments as Proper Officer (appointed by Chief Executive).
6. **The Monitoring Officer is empowered to appoint a Deputy Monitoring Officer.**

B. Specific Powers:

To authorise solicitors and legal staff to represent the City Council in legal proceedings.

After consultation with the appropriate Group Manager the institution, conduct, defence or settlement of legal proceedings.

To approve jointly with the Corporate Director of Regeneration agreements under Section 106 of the Town and Country Planning Act 1990.

To approve jointly with the relevant Group Manager agreements under Section 33 of the Local Government (Miscellaneous Provisions) Act 1982.

To initiate all appropriate enforcement action under the provisions of Part V of the Criminal Justice and Public Order Act 1994 regarding unauthorised encampments.

To act as legal advisor to the Licensing Committee and Sub-Committees.

The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.

~~To appoint a Deputy Monitoring Officer.~~

To receive complaints of failure to comply with the Council's Code of Conduct

To determine, following consultation with the Council's Independent Person, whether or not a Code of Conduct complaint merits formal investigation.

To interview such Officers and Members as is necessary to fulfil the role of Monitoring Officer and to conduct such investigations as are required under the Members' Code of Conduct.

To seek to resolve Code of Conduct complaints without formal investigation wherever possible.

To seek resolution of Code of Conduct complaints without formal hearing following an investigation finding of breach of the Code of Conduct, in consultation with the Council's Independent Person .

To refer Code of Conduct complaints to the Audit and Governance Committee in accordance with the Council's standards arrangements.

Part 3 - Responsibility for Functions

To grant dispensations to Councillors and co-opted Members from the requirements relating to interests set out in the Members' Code of Conduct or other Council codes and protocols where:

- (a) so many Members of the decision-making body have Disclosable Pecuniary Interests in a matter that it would impede the transaction of the business and render the meeting inquorate; or
- (b) without a dispensation, no Member of the Cabinet would be able to participate in the matter and the Cabinet meeting would be inquorate as a result.

The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

To determine matters and to grant such consents as may be necessary or appropriate in relation to Gloucestershire Airport Company Limited, after consultation with the Cabinet Member for Regeneration.

To approve jointly with the relevant Group Manager the issuing of a formal caution by the Investigating Officer, in accordance with the Council's guidance on the issuing of formal cautions.

- 13. To take and train Trainee Solicitors.
- 14. To maintain and coordinate the Register of complaints made to the Local Government Ombudsman.
- 15. To approve jointly with the Corporate Director of Regeneration the form, content and service of any "Stop Notice" under the Town and Country Planning Act 1990.
- 16. To advise on the form, content and service of any "Stop Notice or Closure Notice" as appropriate.
- 17. To make discretionary and Mandatory house renovation grants and approve action for breach of grant conditions jointly with the Housing and Health Group Manager.
- 18. To determine appeals as required under the allocation of Housing Homelessness (Review Procedures) Regulations 1999 under part Vii of the Housing Act 1996 (Homelessness) in consultation with Group Manager, Housing Services, Streetcare and Community Safety.
- 19. **To authorise non-Legal Services staff to appear in the Magistrates' Court in connection with applications for judicial approval of RIPA authorisations, in consultation with the relevant Corporate Director..**

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Rules of Procedure

Part 4 - Rules of Procedure

COUNCIL PROCEDURE RULES

Introduction

The Council Procedure Rules (Democratic Standing Orders) deal with the operation, procedures and practices related to Council, Cabinet and Committee meetings. These rules include both statutory requirements and locally agreed procedures.

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Part 4 - Rules of Procedure

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and Business

In a year when there is an ordinary election of Councillors, the annual meeting shall take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting shall take place in May.

The annual meeting shall:

- (i) elect a person to preside if the Mayor (Chair) or Sheriff and Deputy Mayor (Vice-Chair) of Council are not present;
- (ii) elect the Mayor (Chair) of Council;
- (iii) elect the Sheriff and Deputy Mayor (Vice-Chair) of Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Mayor and/or the Chief Executive;
- (vi) receive any declarations of interests from Members;
- (vii) elect the Leader;
- (viii) appoint at least one Overview and Scrutiny Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);
- (ix) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree functions (as set out in Part 3, Table 1 of this Constitution); and
- (x) consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting shall:

- (i) decide which Committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those Committees;
- (iii) decide the allocation of seats [and substitutes] to political groups in accordance with the political balance rules;
- (iv) receive nominations of Councillors to serve on each Committee; and
- (v) appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.

2. ORDINARY MEETINGS ORDER OF BUSINESS

2.1 Programme of ordinary meetings

The programme of ordinary meetings of the Council will be agreed at an ordinary meeting of Council on an annual basis.

Comment [s15]: Inserts an amendment made by Council in March 2010.

[Note: The programme of ordinary meetings of the Council will normally cover at least an 18 month period]

Comment [s16]: CEWG 12.03.13

2.2 Ordinary meetings shall:

- (i) elect a person to preside if the Mayor (Chair) and Sheriff and Deputy Mayor (Vice-Chair) are not present;
- (ii) approve the minutes of the last meeting;
- (iii) deal with any business from the last Council meeting;
- (iv) receive any declarations of interest from Members and officers;
- (v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (vi) receive petitions and deputations from the public;

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- (vii) receive any announcements from the Mayor, Leader, Members of the Cabinet, Scrutiny Committee Chair(s) or the Chief Executive;
- (viii) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework, Members' Question Time (oral and written questions), issue debate and reports of the Overview and Scrutiny Committees for debate;
- (ix) consider the report of the Group Manager Legal and Democratic Services concerning recommendations to Council from other Committees;
- (x) consider motions;
- (xi) receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- (xii) an exception to the above rules will apply to the budget meeting of Council by the omission of Members' Question Time and issue debate business.

3. EXTRAORDINARY MEETINGS

3.1 Calling Extraordinary Meetings:

Those listed below may request the Corporate Director of Resources to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor of the Council;
- (iii) the Monitoring Officer; and
- (iv) any five Members of the Council if they have signed a requisition presented to the Mayor of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

The business transacted at an extraordinary meeting shall be restricted to the purpose for which the meeting has been called and shall not consider any other business.

4. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES, SUB-COMMITTEES AND FORUMS

The Council shall, at the Annual Meeting (with the exception of the Cabinet, Licensing and Enforcement Committee, ~~and~~ Planning Committee, ~~and~~ ~~Audit and Governance Committee~~) appoint such Members as deputies as it feels necessary, subject to the following:-

- (i) one appointed deputy may attend a meeting in place of a Member of that meeting;
- (ii) for the Planning Committee, any named Member from each party group may receive training on planning matters in accordance with the Planning and Development Code of Practice and may attend a meeting in place of a Planning Committee Member who is unable to attend;
- (iii) for the Licensing and Enforcement Committee, any named Member from each party group may receive training on licensing and enforcement matters in accordance with the Probity in Licensing Code of Practice and may attend a meeting in place of a Licensing and Enforcement Committee Member who is unable to attend;
- (iv) a deputy attending a meeting in the place of a Member of that meeting shall:
 - (a) be regarded as a Member of that meeting;
 - (b) be entitled to speak and vote on any matter before the meeting (subject to the requirements relating to Declarations of Interest);
- (v) that the Member or political group shall advise the Corporate Director of Resources of the name of the appointed deputy by 12 noon two clear working days prior to that meeting (to ensure the relevant papers are supplied to the substitute Member), provided that in the event of genuine emergencies, the Chair of the relevant meeting, after consultation with the Corporate Director of Resources, may approve a Member attending as a deputy without such notice being given.

Comment [s17]: Council – 21.02.13

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5. TIME AND PLACE OF MEETINGS

Ordinary meetings of Council shall commence at 19.00 hours.

The time and place of other meetings shall be determined by the Corporate Director of Resources and notified in the Summons.

6. DURATION OF MEETINGS

The length of time of meetings (excluding Planning Committee, Licensing and Enforcement Committee, Audit and Governance Committee and Council) shall be limited to two hours unless extended by a two-thirds majority of those Members in attendance.

7. NOTICE OF AND SUMMONS TO MEETINGS

The Corporate Director of Resources shall give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five *clear* working days before a meeting, the Corporate Director of Resources will send a Summons signed by him or her by post to every Member of the Council or leave it at their usual place of residence. The Summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

8. CHAIR OF MEETING

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

9. QUORUM

The quorum of a meeting will be one quarter of the whole number of Members (unless specifically provided for in the terms of reference/constitution of a committee, etc.). During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

10. QUESTIONS BY THE PUBLIC

(1) Subject to the provisions of Rule 2 (Order of Business), at or as soon as reasonably possible after the commencement of business at ordinary meetings of the Council (except the annual meeting), the Cabinet, a Committee, (except the Planning Committee) or a Forum, a period of 15 minutes shall be set aside for members of the public to put questions to the meeting **PROVIDED** that no such question shall be allowed in relation to:

- (i) matters which are the subject of current or pending legal proceedings or
- (ii) matters relating to employees or former employees of the Council or comments in respect of individual Council officers

~~(2) The Mayor or the Chair shall allow only one member of the public to speak on the matter for a reasonable period not exceeding 3 minutes.~~

(3) Questions will be dealt with in the order they were received however priority will be given to Gloucester City Council residents.

(4) **Members of the public shall be allowed to ask one question each. Where not all the time set aside for questions by the public is used, members of the public shall be allowed to ask a second question.**

(5) All public questions shall be put to the relevant Cabinet Member or Chair to respond.

Comment [s18]: Recommendation from CEWG – 12.12.12

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- (5) Only one answer shall be given in response to an individual question at a meeting and no debate shall be allowed on the question or the response given ~~save that, at the discretion of the Mayor or Chair, a supplementary question may be allowed from the original questioner for the purposes of clarification only.~~
- (6) At the discretion of the responding Cabinet Member or Chair where, in his/her opinion, the question requires further information to enable a full response to be given which is not available at the meeting, the Cabinet Member or Chair may either:-
 - (i) agree that a response will be made in writing at a later date to the questioner, in which case copies of the response shall also be sent to Members of the meeting; or
 - (ii) respond to the question, either orally or in writing, at the next meeting of the Council, the relevant Committee, or Forum.
- (7) The Mayor or Chair shall not allow the same question, or substantially the same question, to that put at a previous meeting of the Council, a Committee, or a Forum within the preceding six months, unless circumstances relating thereto have materially changed.

11. PETITIONS AND DEPUTATIONS FROM THE PUBLIC

- (1) All petitions received, including e-petitions, shall be dealt with in accordance with the Council's published petitions scheme a copy of which is appended to the Constitution.
- (2) Subject to the provisions of Rule 2, after the period set aside for public questions as provided in Rule 10, at all ordinary meetings of the Council (except the annual meeting) the Cabinet, a Committee, (except the Planning Committee) or a Forum, a period of 15 minutes shall be set aside for members of the public to present petitions or make deputations to the meeting **PROVIDED** that no such petitions or deputations shall be allowed in relation to:
 - (i) matters relating to individual Council Officers; or
 - (ii) matters relating to current or pending legal proceedings
- (3) Where any petition is presented or any deputation is made, the Mayor or the Chair shall allow only one member of the public to speak on the matter for a reasonable period not exceeding 3 minutes.
- (4) Where a petition is presented or a deputation is made:
 - (i) at a Council meeting, the Mayor shall refer the matter to the appropriate Cabinet Member or Committee Chair to respond on behalf of the Council;
 - (ii) at a Committee, or Forum meeting, the Chair shall respond.
- (5) Only one response shall be given to a petition or deputation and no debate shall be allowed on the petition, deputation or response.
- (6) At the discretion of the responding Cabinet Member or Committee Chair, the subject matter of the petition or deputation may be referred to a future meeting of the Council, the Cabinet, appropriate Committee, or Forum for consideration.
- (7) The Mayor or Chair shall not allow a petition to be presented or a deputation made on the same issue, or substantially the same issue, to that presented or made at a previous meeting of the Council, the Cabinet, a Committee, or a Forum within the preceding six months, unless circumstances relating thereto have materially changed.

12. QUESTIONS BY MEMBERS

Part 4 - Rules of Procedure

12.01 Leader and Cabinet Members' Question Time

That a period of forty five minutes be set aside so that any Member of Council may ask the Leader of the Council or any Cabinet Member any question, without prior notice, upon

- any matters relating to the Council's administration;
- relating to any report of the Cabinet appearing on the Council's summons;
- a matter coming within their portfolio of responsibilities.

~~The Mayor shall allow only one Member to speak on the matter for a reasonable period not exceeding 3 minutes per question.~~

Comment [s19]: CEWG – 17.12.12

Where there is one opposition Group, the opposition group leader shall have the opportunity to ask the first two questions and where there are two opposition groups, the opposition group leaders shall have the opportunity to ask the first four questions, two questions each respectively.

Every question shall be put and answered without discussion provided that a Member may, ~~for the purpose of clarification,~~ ask one supplementary question related to a question already put by themselves.

12.02 Written Questions to Cabinet Members

Subject to Rule 15, a Member of the Council may submit a written question to any Cabinet Member

- a matter coming with their portfolio of responsibilities subject to a copy of such question being delivered to the Corporate Director of Resources not later than 12.00 noon ten clear working days preceding the day of the Council meeting; provided that at the discretion of the Chair a question may be permitted without such notice relating to business which the Chair considers to be urgent upon the same being delivered to the Chair in writing; or
- relating to a report of the Cabinet appearing on the Council summons

Every question shall be put and answered without discussion provided that a Member may, ~~for the purpose of clarification,~~ ask one supplementary question related to a question already put by themselves and that no time limit be imposed on supplementary questions and answers.

12.03 Questions To Chairs of Meetings

That a period 15 minutes be set aside so that any Member of the Council may ask the Chair of a Committee any question upon any issue in respect of that Committee or in respect of an item shown in the minutes of the Committee after they have been approved by the relevant Committee.

12.04 Answers To Questions

Any answer may take the form of:-

- (a) a direct oral answer; or
- (b) where the desired information is contained in a publication of the Council, a reference to that publication; or
- (c) where the reply to the question cannot conveniently be given orally, a written answer circulated to Members of the Council and if not confidential, to the press.

~~16. PRESENTATIONS TO COUNCIL~~

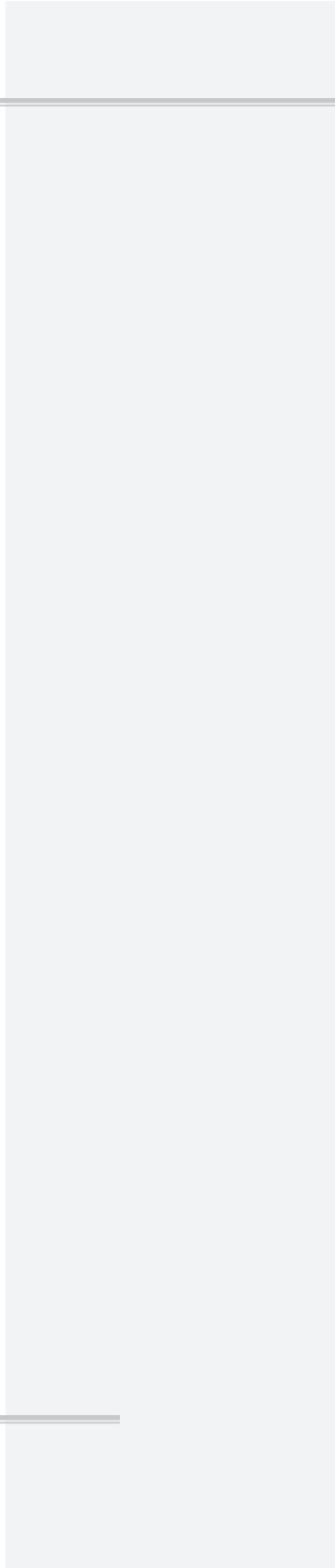
~~16.01 The Mayor may on up to four times per Civic Year invite presentations lasting no more than 30 minutes (including questions and answers) from Strategic Partners and other influential~~

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~~bodies regarding current, strategic and future issues. Other presentations relevant to Council may be permitted as the Mayor sees fit.~~

Comment [s20]: Recommendation from CEWG – 17.12.12

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BUDGET AND POLICY FRAMEWORK

1. THE FRAMEWORK FOR EXECUTIVE 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.

2. PROCESS FOR DEVELOPING THE FRAMEWORK

- (a) The Cabinet will publicise by including in the Forward Plan and other methods e.g. on its web site, in local press; a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Chair of Overview and Scrutiny Committee will also be notified. The consultation period shall in each instance be not less than six weeks.
- (b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If the Overview and Scrutiny Committee wishes to respond to the Cabinet in that consultation process then it may do so. As the Overview and Scrutiny Committee has responsibility for fixing their own work programme, it is open to the Overview and Scrutiny Committee 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 Overview and Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the ~~executive~~ **Cabinet's** response.
- (c) Once the Cabinet has approved the firm proposals, the Corporate Director of Resources will refer them at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.
- (e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) The decision will be publicised in accordance with Access to Information Procedure Rules and a copy shall be given to the Leader of the Council.
- (g) An in-principle decision will automatically become effective at least five days from the date of the Council's decision, unless the Leader informs the Corporate Director of Resources in writing within five days that he/she objects to the decision becoming effective and provides reasons why.
- (h) In that case, the Corporate Director of Resources will call a Council meeting within a further ten days. The Council will be required to re-consider its decision and the written submission within five days.
The Council may:
 - (i) approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
 - (ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.

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- (i) The decision shall then be made public in accordance with Access to Information Procedure Rules, and shall be implemented immediately.
- (j) 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. Any other changes to the policy and budgetary framework are reserved to the Council.

3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- (a) Subject to the provisions of paragraph 5 the Cabinet, Committees of the Cabinet, individual ~~Cabinet Members of the Executive~~ and any officers, Area Committees 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 4 below.
- (b) If the Cabinet, Committees of the Cabinet, individual ~~Members of the Cabinet~~ **Members** and any officers, Area Committees or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial 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 4 (urgent decisions outside the budget and policy framework) shall apply.

4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- (a) The Cabinet, a Committee of the Cabinet, an individual ~~Member of the Cabinet~~ **Member** or officers, Area Committees 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 Chair of Overview and Scrutiny Committee 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 with the Chair of the Overview and Scrutiny Committee 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 Chair of Overview and Scrutiny Committee the consent of the Mayor, and in the absence of both the Sheriff and Deputy, 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.

5. 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, and individual ~~Member of the Cabinet~~ **Member** or officers, Area Committees or joint arrangements discharging Cabinet

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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.

6. CALL-IN DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- (a) Where the Overview and Scrutiny Committee 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 Chief Financial Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Financial 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 Chief Finance Officer conclude that the decision was a departure, and to the Overview And Scrutiny Committee if the Monitoring Officer or the Chief Finance 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 Chief Finance 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 Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision, or its implementation, until the Council has met and considered the matter. The Council shall meet within ten days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance 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;
 - (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 to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

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1. STATUS OF FINANCIAL REGULATIONS

Introduction

- 1.1 Gloucester City Council's Financial Regulations provide the framework for managing the Council's financial affairs. They apply to every Member and officer of the Council and anyone acting on its behalf.
- 1.2 The Regulations identify the financial responsibilities of Council, Cabinet, Overview and Scrutiny Members, the Head of Paid Service, the Monitoring Officer, the S151 Officer and other Corporate Directors. Special responsibilities are allocated to the Monitoring Officer and the S151 Officer (Corporate Director of Resources). The Cabinet, Corporate Directors and Gloucester Leadership Team (GLT) should maintain a written record where decision making has been delegated to members of staff, including seconded staff.
- 1.3 All Members and staff 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, is properly authorised, provides value for money and achieves best value.
- 1.4 The Corporate Director of Resources as the S151 Officer is responsible for maintaining a continuous review of the Financial Regulations and Contract Standing Orders, and submitting any additions or changes necessary to the Audit **and Governance** Committee before recommendation to Council for approval. The S151 Officer is also responsible for reporting, where appropriate, breaches of the Financial Regulations to Council and/or to Cabinet, and to the **Overview and Scrutiny** Committee or its equivalent.
- 1.5 To underpin the Financial Rules, the S151 Officer has responsibility for issuing in a timely manner, detailed financial management standards, advice and guidance that Members, officers and others acting on behalf of the Council are required to follow. The S151 Officer is also responsible for ensuring compliance with financial rules.
- 1.6 Such financial management standards, advice and guidance will be reviewed, and amended as necessary, by the S151 Officer.
- 1.7 Corporate Directors are responsible for ensuring that all staff in their departments are aware of the existence and content of the Financial **Regulations rules** and other internal regulatory documents and that they comply with them. It is a disciplinary offence if a member of staff fails to comply with Financial Regulations, Contract Standing Orders or Procurement Rules and / or acts fraudulently or corruptly.
- 1.8 Members and employees have a duty to report any breaches of the Code of Conduct or of these Financial Regulations, Contract Standing Orders or Procurement Rules or any fraudulent corrupt practice to a Senior Manager and / or Group Manager, Audit and Assurance.

2. FINANCIAL REGULATION: FINANCIAL MANAGEMENT AND CONTROL

Introduction

- 2.1 Financial management covers all financial accountabilities in relation to the running of the Council. The S151 Officer is responsible for the compilation of policy statements on financial matters as they may determine which shall supplement these Financial Rules. These policies provide ~~officers and~~ Members **and officers** with greater detail of the financial controls to be followed concerning revenue and capital expenditure and general financial matters. Policy Statements approved by Cabinet and Council shall have the same effect and standing as Financial **Regulations rules** and shall be observed by all officers of the Council.

Council

- 2.2 Council is responsible for adopting the Constitution and Members' Code of Conduct and for approving the Policy Framework and Budget within which Cabinet operates. Council is also

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responsible for approving and monitoring compliance with the Council's overall framework of accountability and control as set out in the Constitution. Council is also responsible for monitoring compliance with the agreed **policies** and related Executive decisions.

- 2.3 Council is responsible for approving procedures for recording and reporting decisions taken. This includes decisions taken by Cabinet and decisions taken by Council and its committees. Details of who has delegated responsibility for decisions are set out in the Constitution.

Cabinet

- 2.4 Cabinet is responsible for proposing the Budget to Council, and for discharging **Executive** functions in accordance with the Budget.
- 2.5 Executive decisions can be delegated to a Committee, Sub-Committee, a Cabinet Member, an officer or a joint committee.
- 2.6 Cabinet is responsible for establishing procedures to ensure that individual Cabinet Members consult with relevant officers before taking a decision within their delegated authority. In doing so, the individual Member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

Committees of the Council

Overview and Scrutiny Committee

- 2.7 The overview and scrutiny process is responsible for scrutinising Cabinet decisions before or after they have been implemented and for holding Cabinet to account. Overview and Scrutiny is also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Council.

Audit and Governance Committee

- 2.8 The Audit and Governance Committee is responsible for overseeing the Council's Constitution in respect of Financial Regulations, Contract Standing Orders and Code of Governance and approval of the Statement of Accounts and Annual Governance Statement by Council. It is also responsible for promoting and maintaining high standards of conduct amongst Councillors. In particular, it is responsible for advising Council on the adoption and revision of the Members' Code of Conduct, for monitoring the operation of the Code and hearing complaints of a Member's breach of the Code

Other Regulatory Committees

- 2.10 Various non Executive functions are exercised through politically balanced regulatory committees under powers delegated by Council. The regulatory committees report to Council.

The Statutory Officers

Head of Paid Service (and Chief Executive)

- 2.11 The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. They must report to and provide information for Cabinet, Council, **Overview and Scrutiny** and other committees. They are responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to Executive and Council decisions. The Head of Paid Service is responsible for the manner in which the discharge by the Council of ~~their~~ **its** functions is coordinated and for the organisation, appointment and proper management of the Council staff.

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Monitoring Officer

- 2.12 The Monitoring Officer is required under Section 5 of the Local Government and Housing Act 1989 to report to the Cabinet or Council if any proposal, decision or omission by the Council, Cabinet, or Officer will:
- (i) break the law; or
 - (ii) be maladministration
- ~~and~~ ~~Such~~ report shall be considered within 21 days of circulation of the report to Members, and ~~such~~ action on the relevant matter must be suspended until the report is so considered. The Monitoring Officer must consult the Head of Paid Services and the Corporate Director of Resources (S151 Officer).
- 2.13 The Monitoring Officer must ensure that Executive decisions and the reasons for them are made public. They must also ensure that Council Members are aware of decisions made by Cabinet and of those made by officers who have delegated Executive responsibility.
- 2.14 The Monitoring Officer is responsible for advising all Councillors and officers about who has authority to take a particular decision.
- 2.15 The Monitoring Officer is responsible for advising Cabinet or Council about whether a decision is likely to be considered contrary to or not wholly in accordance with the Policy Framework.
- 2.16 The Monitoring Officer (together with the S151 Officer) is responsible for advising Cabinet or Council about whether a decision is likely to be considered contrary to or not wholly in accordance with the Budget. Actions that may be contrary to or not wholly in accordance with the Budget include:
- initiating a new scheme or policy for which no budgetary provision has been made in the Budget
 - committing expenditure in future years above the Budget level
 - incurring Budget transfers above virement limits
 - causing the total expenditure financed from Council tax, grants and corporately held reserves to increase,
- 2.17 The Monitoring Officer is responsible for maintaining an up-to-date copy of the Constitution.
- 2.18 Section 5 of the Local Government and Housing Act 1989 require:
- (i) the Council to provide such staff, accommodation and other resources as the Monitoring Officer considers necessary to carry out his/her duties; and permit
 - (ii) the Monitoring Officer to appoint a Deputy.

S151 Officer

- 2.19 The Corporate Director of Resources as S151 Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. These arise from:
- Section 151 of the Local Government Act 1972
 - The Local Government Finance Act 1988
 - The Local Government and Housing Act 1989
 - The Accounts and Audit Regulations 2003
 - The Accounts and Audit (Amendment) (England) Regulations 2006
 - The Local Authority (Capital Finance and Accounting) (England) Regulations 2003
- 2.20 The S151 Officer is responsible for:

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APPENDIX A: FINANCIAL MANAGEMENT AND CONTROL

A1 Financial Management Standards

A1.1 Why is this important?

All ~~staff and~~ Members **and staff** have a duty to abide by the highest standards of probity in dealing with financial issues. This is achieved in part by ensuring that every one is clear about the standards to which they are working, and the controls which are in place to ensure that these standards are met.

A1.2 Key controls

The key controls for financial management standards are:

- their promotion of those management standards and training on these throughout the Council;
- having in place a monitoring system to review compliance with financial standards, and that regular comparisons of performance indicators and benchmark standards are reported to the Audit **and Governance** Committee, Cabinet and Council.

A1.3 Responsibilities of Corporate Director of Resources

- To ensure the proper administration of the financial affairs of the Council.
- To set the financial management standards, and to monitor compliance with them.
- To ensure proper professional practices are adhered to, and to act as head of profession in relation to the standards, performance and development of finance staff throughout the Council.
- To advise on the key strategic controls necessary to secure sound financial management.
- To ensure that financial information is available to enable accurate and timely reporting of comparisons of national and local financial performance indicators.

A1.4 Responsibilities of Corporate Directors, Group and Service Managers

- To promote the financial management standards set by the Corporate Director of Resources in their service areas and to monitor adherence to those standards and practices.
- To promote sound financial practices in relation to the standards performance and development of staff in their service areas.

A2 Managing and Controlling Spending

Revenue Budget

A2.1 Why is this important?

Budget management ensures that resources allocated by Members are used for their intended purposes and that these resources are properly accounted for. budgetary control is a continual process enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism to call to account managers responsible for defined elements of the budget.

By identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual cash limit, approved in setting the overall budget. To ensure that the Council in total

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A6.3 Responsibilities of Corporate Director of Resources

To determine the accounting procedures and records for the Council. Where these are maintained in a Service other than resources, before making any determination, they will consult the Group Manager concerned.

To compile all accounts and accounting records or ensure they are compiled under his/her direction.

To comply with the following principles when allocating accounting duties:

- separating the duties of providing information about sums due to or from the Council and calculating, checking and recording these sums, from the duty of collecting or disbursing them;
- employees with the duty of examining or checking the accounts of cash transactions shall not themselves be engaged in these transactions.

To make proper arrangements for the audit of the Council's accounts in accordance with the Accounts and Audit Regulations.

To prepare and publish the audited accounts of the Council for each financial year, in accordance with the statutory timetable, and with the requirement for ~~Council~~ **Audit and Governance Committee** to approve the statement of Accounts before 30 June.

To administer the Council's arrangements for under and overspendings to be written to General Fund balances.

To ensure the proper retention of financial documents. The periods for which documents are to be retained will be specified separately to these financial procedures in the Council's Document Retention Policy (see Annex A2 – Contract Standing Orders).

To complete all statutory financial returns to government departments.

A6.4 Responsibilities of Corporate Directors, Group and Service Managers

To consult with the Group Manager, Audit and Assurance, and obtain the approval of the Corporate Director of Resources before making any changes to accounting records and procedures.

To comply with the principles of separation of duties when allocating accounting duties.

To maintain adequate records to provide an audit trail leading from the source of income / expenditure through to the accounting statements.

To supply information required to enable the Statement of Accounts to be completed, in accordance with guidelines issued by the Corporate Director of Resources.

To observe such accounting instructions as may be made from time to time.

To maintain detailed records to support claims submitted for expenditure funded from specific grants

To supply information required to enable all statutory financial returns to be submitted within timescales.

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APPENDIX B: FINANCIAL PLANNING

B1 Resource Allocation

B1.1 Why is this important?

A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfill need/desire. It is therefore imperative that resource allocation is carefully prioritised and that resources are fairly allocated, in order to fulfill all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

B1.2 Key controls

The key controls for resource allocation are:

- budget managers obtain appropriate resources for the specified level of service delivery;
- resources are acquired using an approved authorisation process;
- resources are only used for the purpose intended by Council, to achieve the approved policies and objectives, and are properly accounted for;
- resources are secured for use when required;
- resources are used with the minimum level of waste, inefficiency or loss.

B1.3 Responsibilities of Corporate Director of Resources

To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.

To assist in the allocation of resources to managers.

B1.4 Responsibilities of Corporate Directors, Group and Service Managers

To work within budget limits and to utilise resources allocated and further allocate resources in the most efficient, effective and economic way.

To identify opportunities to minimise or eliminate resource requirements or consumption without a detrimental effect on service delivery.

B2 Capital Programme

B2.1 Why is this important?

Capital expenditure involves acquiring or enhancing fixed assets with a long term value to the Council, such as land, buildings and major items of plant and equipment or vehicles. Capital assets shape the way services are delivered for the long-term and create future financial commitments in the form of revenue running costs, they may also generate income.

There are strict controls on the financing capacity of the Council. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

B2.2 Key controls

The key controls for capital programmes are:

- specific approval by Council for the programme of capital expenditure;
- expenditure on capital schemes is subject to the approval of the Corporate Director of Resources;
- a scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project, for approval by the Corporate Director of Resources and the ~~Portfolio holder~~ **Cabinet Member** for **Performance and Resources**;

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- proposals for improvements and alterations to buildings must be approved by the Corporate Director of Resources;
- the development and implementation of asset management plans;
- accountability for each proposal is accepted by a named manager;
- monitoring of progress in conjunction with expenditure and comparison with approved budget;
- post project review to be undertaken on major capital schemes.

B2.3 Responsibilities of Corporate Director of Resources

To prepare capital estimates jointly with Corporate Directors and report them to Cabinet for approval at the same time as the revenue budget is agreed and approved. Cabinet will make recommendations on the capital estimates and on any associated financing requirements to Council.

To issue guidance concerning capital schemes and controls for example on project appraisal techniques. The definition of 'capital' will be determined by the Corporate Director of Resources, having regard to Government rules and accounting requirements.

To obtain authorisation by Cabinet for individual schemes where the estimated expenditure exceeds the capital programme provision by more than the specified amount.

To prepare and submit regular capital monitoring reports to Cabinet comparing expenditure to estimates, clearly identifying variances, with explanations for the variances and recommendations for any actions to be taken.

To approve with the ~~Portfolio holder~~ **Cabinet Member** for Performance and Resources, capital projects in excess of £50,000 for commencement.

B2.4 Responsibilities of Corporate Directors, Group and Service Managers

To comply with guidance concerning capital schemes and controls issued by the Corporate Director of Resources.

To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Corporate Director of Resources.

To ensure that adequate records are maintained in respect of all capital contracts.

To proceed with projects only when there is adequate provision in the capital programme, and where projects exceed £50,000 with the agreement of the Corporate Director of Resources.

To prepare and submit monitoring reports, jointly with the Corporate Director of Resources, to Cabinet of any variation in contract costs greater than the approved limits. (See Contract Standing Orders)

To prepare and submit reports, jointly with the Corporate Director of Resources, to Cabinet, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than the specified amount. (See Contract Standing Orders)

To ensure that they do not enter into credit arrangements, such as leasing agreements, without the prior approval of the Corporate Director of Resources and, if applicable, approval of the scheme through the capital programme.

To consult with the Corporate Director of Resources and seek Cabinet approval where the Group Manager / Service Manager proposes to bid for additional grants to be issued by Government departments to support expenditure which has not been included in the current year's capital programme.

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APPENDIX C: AUDIT AND CONTROL OF RESOURCES

C1 Internal Audit Requirements

C1.1 Why is this important?

The Corporate Director of Resources undertakes a statutory responsibility for the overall financial administration of the Council's affairs and is responsible for maintaining an adequate and effective internal audit.

Internal audit is an independent and objective appraisal function established by Council for reviewing the Council's system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

C1.2 Key controls

The key controls for internal audit are:

- that it remains independent in its planning and operation;
- the Group Manager, Audit and Assurance, has direct access to the Head of Paid Service, Cabinet, Audit **and Governance** Committee and Monitoring Officer;
- the internal auditor complies with CIPFA's Code of Practice for Internal Audit, and other relevant guidance.

C1.3 Responsibilities of Corporate Director of Resources

The Corporate Director of Resources has been delegated with maintaining an adequate and effective system of internal audit. They must ensure that internal auditors have the authority to:

- (i) enter at all reasonable times on to any premises or land under the control of, or used by, the Council;
- (ii) have access to all records, documents, contracts and correspondence, including data relating to any financial or other transaction of the Council;
- (iii) have access to records belonging to partner organisations when required and receive such explanations as are necessary concerning any matter under examination;
- (iv) require any employee of the Council to produce cash, stores, or other property under their control.

C1.4 Responsibilities of the Group Manager, Audit and Assurance

To maintain Annual Audit Plans which take account of the characteristics and relative risks of the activities involved. They should liaise with Corporate Directors on the Audit Strategy and cover required. In addition to the statutory requirement, this takes account of the need to seek added value, effective use of resources, improved performance and cost-effective controls.

Where an appropriate response to audit recommendations has not been made within a reasonable period, the Corporate Director of Resources may refer the matter to the Head of Paid Service and/or the Audit **and Governance** Committee.

To investigate promptly any fraud or irregularity of which they become aware and to report to the Monitoring Officer who will consider any legal proceedings together with the Group Manager Legal and Democratic Services and the Chief Executive will consider any disciplinary action in consultation with the appropriate Group Manager.

To report annually to the Head of Paid Service, S151 Officer and to the Audit **and Governance** Committee on the main issues raised by internal audit during the year. Furthermore annual audit plans will be submitted to and approved by the Audit **and Governance** Committee.

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C4 Resources: Land, Buildings, Plant and Machinery

Security

C4.1 Why is this important?

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth millions of pounds. It is important that assets should be safeguarded and used efficiently in the delivery of services, and that there should be arrangements for the security of both assets and service operations.

C4.2 Key controls

The key controls for the security of resources, such as land, buildings, fixed plant and machinery are:

- (a) budget managers obtain appropriate resources for the specified level of service delivery;
- (b) resources are acquired using an approved procurement process;
- (c) resources are used only for the purposes of the Council and properly accounted for;
- (d) resources are secured to be available for use when required;
- (e) resources no longer required are disposed of in accordance with the law and the Council rules so as to maximise benefits;
- (f) regular audits of assets are undertaken to ensure their continued existence and that they remain fit for purpose.

C4.3 Responsibilities of Corporate Director of Resources

To ensure that asset registers are maintained in accordance with good practice.

To receive information from Corporate Directors required for accounting, costing and financial records.

To assist and advise, in consultation with the appropriate Group Manager, the records to be maintained to ensure proper security and control of premises, stocks, stores, furniture equipment, cash and other items of value.

C4.4 Responsibilities of Corporate Directors, Group and Service Managers

To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the appropriate Group Manager / Service Manager, in consultation with the Corporate Director of Resources and the ~~Legal Services Manager~~ **Group Manager Legal and Democratic Services**, has been established as appropriate.

To ensure the proper security of all buildings and other assets under their control.

To periodically review land and buildings in order to identify any that are surplus to requirements.

Where land or buildings are identified as surplus to requirements, a recommendation for the sale of land should be the subject of a joint report by the appropriate Corporate Director and the Corporate Director of Resources.

Where the use of buildings or land is subject to appropriation between services, to refer the appropriation for approval by Cabinet, taking into account the alternative possible uses of the land.

To pass title deeds to the ~~Legal Services Manager~~ **Group Manager Legal and Democratic Services**, who is responsible for custody of all title deeds.

To ensure that no Council asset is subject to third party or personal use by an employee without proper authority.

To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.

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To ensure that the Service maintains a register of moveable assets.

To ensure assets are identified, their location recorded and that they are appropriately security marked and insured.

To consult the Corporate Director of Resources in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

To ensure cash holdings on premises are kept to a minimum and to advise the Corporate Director of Resources where there may be an exception to this case.

The disposal of all surplus equipment, stocks or stores expected to realise in excess of £5,000 should normally be by competitive tender or public auction in accordance with Contract Standing Orders unless, following consultation with the Corporate Director of Resources. A record of all such disposals shall be maintained.

To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Corporate Director of Resources.

To ensure that all their employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way.

Inventories

C4.5 Responsibilities of Corporate Director of Resources

To advise on the form, layout and content of inventory records to be maintained by the Council.

C4.6 Responsibilities of Corporate Directors, Group and Service Managers

To maintain inventories in a form approved by the Corporate Director of Resources to adequately record and describe furniture, fittings and equipment, plant and machinery under their control.

To carry out an annual check of all items on the inventory in order to take action in relation to surpluses or deficiencies, annotating the inventory accordingly and reporting any material discrepancies to the Corporate Director of Resources.

Attractive and portable items, such as computers and cameras should be identified with security markings as belonging to the Council and appropriately controlled and secured.

To make sure that property is only used in the course of Council business unless the Corporate Director, Group Manager or Service Manager concerned has given permission otherwise.

Surplus ICT equipment is to be returned to ~~the Group Manager~~, Business Transformation and Technology who shall reallocate it or dispose of it in accordance with IT disposal policy.

Stocks and Stores

C4.7 Responsibilities of Corporate Director of Resources

To advise on the arrangements for the care and custody of stocks and stores and the method of stock valuation to be used where appropriate.

C4.8 Responsibilities of Corporate Directors, Group and Service Managers

To make arrangements for the care and custody of stocks and stores in Services.

To ensure stocks are maintained at reasonable levels and subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.

To write-off discrepancies of up to £500 and seek advice from Internal Audit on discrepancies above this limit.

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APPENDIX D: SYSTEMS AND PROCEDURES

D1 Systems and Procedures: General

D1.1 Why is this important?

The Council has many systems and procedures relating to the control of assets, including purchasing, cash receipting and financial ledger systems. Services are mainly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

The Corporate Director of Resources has a professional responsibility to ensure that the Council's financial systems are sound and should therefore be notified of any new developments or changes.

D1.2 Key controls

Basic data exists to enable the Council's objectives, targets, budgets and plans to be formulated

Performance is communicated to the appropriate managers on an accurate, complete and timely basis

Early warning is provided of deviations from target, plans and budgets that require management attention

Operating systems and procedures are secure.

D1.3 Responsibilities of Corporate Director of Resources

To make arrangements for the proper administration of the Council's financial affairs, including to:

- issue advice, guidance and procedures for the Council's officers and others acting on its behalf;
- determine the accounting systems, form of accounts and supporting financial records;
- establish arrangements for audit of the Council's financial affairs;
- approve any changes to be made to existing financial systems or new systems introduced.

D1.4 Responsibilities of Corporate Directors, Group and Service Managers

To ensure that accounting records are properly maintained and held securely.

To ensure that vouchers and documents with financial implications are not destroyed except in accordance with arrangements approved by the Corporate Director of Resources.

To ensure that a complete management trail, allowing financial transactions to be traced from the original document to the accounting records, and vice versa, is maintained.

To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and minimise the risk of fraud or other malpractice.

To ensure that systems are documented and staff trained in operations.

To consult with the Corporate Director of Resources before changing any existing system or introducing new systems.

To ensure procedures are regularly audited to ensure appropriate staff training has occurred and authorisations have occurred.

To seek approval from the Corporate Director of Resources and Group Manager Legal and Democratic Services in situations where it is considered that the Financial Regulations or Contract Standing Orders should be waived or a procurement exemption applied.

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To establish a scheme of delegation identifying officers authorised to act upon the Corporate Directors behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.

To supply lists of authorised officers, with specimen signatures and delegated limits to the Corporate Director of Resources, together with any subsequent variations.

In consultation with the ~~Group Manager~~, Business Transformation and Technology, to ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably offsite, or in an alternative location within the building.

In consultation with the Group Manager Legal and Democratic Services to ensure that, where appropriate, computer systems are registered in accordance with the Data Protection legislation and that staff are aware of their responsibilities under the legislation.

To ensure that relevant standards and guidelines for computer systems issued by the appropriate Group Manager / Service Manager are observed.

To ensure that computer equipment and software are protected from loss and damage through theft, vandalism etc.

To comply with the copyright, designs and patents legislation and, in particular, ensure that:

- only software legally acquired and installed by the Council is used on its computers;
- staff are aware of legislative provisions.

D2 Income

D2.1 Why is this important?

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all of the income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cashflow and also avoids the time and cost of administering debts.

D2.2 Key controls

The key controls for income are:

- all income due to the Council is identified and charged correctly;
- all income is collected from the correct person, at the right time using the correct procedures and the appropriate stationery;
- all money received by an employee on behalf of the Council is paid without delay to the Council's bank account, and properly recorded;
- effective action is taken to pursue non-payment within defined timescales;
- formal approval for write-off is obtained;
- appropriate write-off action is taken within defined timescales;
- appropriate accounting adjustments are made following write-off action;
- all appropriate income documents are retained and stored for the defined period in accordance with the Document Retention Policy.

D2.3 Responsibilities of Corporate Director of Resources

To agree arrangements for the collection of all income due to the Council and approve the procedures, systems and documentation for its collection.

To agree the write off of bad debts up to £10,000 - £100,000 with Cabinet Member, Performance and Resources (see Delegation Section) in each case and to refer larger sums to Cabinet.

To ensure that appropriate accounting adjustments are made following write-off.

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D2.4 Responsibilities of Corporate Directors, Group and Service Managers

To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and review it regularly, within corporate policies.

To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.

To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts which are not paid promptly in consultation with the Legal Services Manager.

To issue official receipts or maintain other documentation for income collection.

To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.

To hold securely receipts, tickets and other records of income, for the appropriate period.

To lock away all income to safeguard against loss or theft until it can be banked, and to ensure the security of cash handling.

To ensure that income is paid fully and promptly into the Council's bank account in the form in which it is received. Appropriate details should be recorded on to the Cash Receipting system to provide an audit trail.

To ensure income is not used to cash personal cheques or other payments.

To record correctly the sums due to Council and to ensure accounts are raised promptly for work done, goods supplied or services rendered.

Corporate Directors have a responsibility to assist the Corporate Director of Resources in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf.

To keep a record of every transfer of official money between Council employees. The receiving officer must sign for the transfer and the giving officer must retain a copy.

To recommend to the Corporate Director of Resources all debts to be written off and keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.

To obtain the approval of the Corporate Director of Resources when writing off any individual amounts in excess of £500 and amounts for an individual debtor that in total exceed £500.

To notify the Corporate Director of Resources of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Corporate Director of Resources.

D3 Payments to Employees and Members

D3.1 Why is this important?

Employee costs are the largest item of expenditure for most Council services. It is, therefore important that there should be controls in place to ensure that payments are made only where they are due for services to the Council and that payments accord with individual's contracts of employment and conditions of service.

D3.2 Key controls

The key controls for payments to employees and Members are:

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- Proper authorisation procedures and adherence to corporate timetables for:
 - appointments, resignations, dismissals, suspensions and secondments;
 - absences from duty for sickness and unpaid leave;
 - changes in remuneration, other than pay awards;
 - information necessary to maintain records of service for superannuation, income tax, national insurance.
- Frequent reconciliation of payroll expenditure against approved budget.
- All appropriate payroll documents are retained and stored for the defined period in accordance with the "Guidelines on the Destruction of Financial Records". (See Annex 2 Document Retention Schedule)

Comment [s21]: There is no Annex 2 to the Regulations.

D3.3 Responsibilities of Corporate Director of Resources

To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to employees in accordance with procedures prescribed on the due date.

To record and control tax and other statutory deductions.

To make arrangements for payment of all travel and subsistence claims or financial loss allowance

To make arrangements for paying Members travel or other allowances upon receiving the prescribed form duly completed and authorised.

Claim forms submitted more than three months after the expenditure has been incurred shall only be paid on the approval of the Corporate Director of Resources.

To secure payment of salaries and wages by most economical means.

D3.4 Responsibilities of Corporate Directors, Group and Service Managers

To ensure appointments are made in accordance with the rules of the Council and approved establishments, grades, scales of pay and that adequate budget provision is available for the current financial year and subsequent years.

To notify the Corporate Director of Resources of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Corporate Director of Resources.

To ensure that adequate and effective systems and procedures are operated for personnel and payroll aspects, so that:

- payments are only authorised to bona fide employees;
- payments are only made where there is a valid entitlement;
- conditions, service and contracts of employment are correctly applied;
- employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness;
- there is an effective system of checking and certifying payroll forms.

To send an up-to-date list of the names of officers authorised to sign records to the Corporate Director of Resources, together with specimen signatories.

To ensure that payroll transactions are processed only through the payroll system. Corporate Directors should give careful consideration to the employment status of individuals employed on a "self employed consultant or sub-contract" basis. The Inland Revenue applies clear guidelines for employee status and in cases of doubt, advice should be sought from the Corporate Director of Resources.

To certify travel and subsistence claims and other allowances on a monthly basis. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel

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CONTRACT STANDING ORDERS 2009
Including Procurement Rules

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4. Procurement Overview

New Financial Year Requirements

- 4.1 In each financial year, the Council shall review its Procurement Policies and the effect (if any) on these Standing Orders. The Review should set out current contracts and those to be procured for the forthcoming five financial years.
- 4.2 The Council may publish a Prior Information Notice (PIN) in the OJEU listing the contracts for services and supplies which it expects to procure for the financial year.
- 4.3 In respect of contracts for works, the Council shall publish a PIN in the OJEU when the works are approved.

Awarding Contracts

- 4.4 The Council shall only award a contract that meets the Council's statutory or approved objectives and priorities; and where there is the best value for money, except contracts where lowest price was pre-determined to be the appropriate criteria.
- 4.5 The Lead Procurement Officer must, prior to the award, ensure that there are sufficient funds in place to sustain the contract.
- 4.6 A contract may only be awarded by an officer with the requisite delegated authority to award contracts. (see Scheme of Delegation).
- 4.7 Procurements valued at above £500,000 are deemed to be "Key" decisions and therefore must be included on the ~~Leader's~~ Forward Plan for Cabinet to determine.
- 4.8 In all circumstances, except low value procurement, financial and other references shall be taken up prior to determination to ensure the supplier's suitability and standing for the Contract.
- 4.9 No contract shall commence until an official order for the procurement has been issued.
- 4.10 Except where the appropriate Corporate Director may otherwise direct, contractors shall not be allowed to commence work unless authorised in writing by the Council that they may do so and, where required,
- (a) any necessary performance bond has been secured and delivered to the Council, or other security accepted as therein provided; and
 - (a) the construction phase Health and Safety Plan, in accordance with Construction (Design and Management) Regulations 2007, has been approved by the CDM Coordinator.
- 4.11 As soon as practicable after a tender has been accepted, (subject to contract) the Group Manager Legal and Democratic Services shall be authorised to disclose the accepted figure and name of the successful tenderer to all unsuccessful tenderers.
- 4.12 The Lead Procurement Officer shall provide a debriefing to unsuccessful tenderers on written request based upon the Evaluation Criteria.
- Contract Management (see Project Management – paragraphs 9.20 and 9.21)**
- 4.13 Lead Procurement Officers must ensure that the performance of all contracts is managed throughout the period of the contract, and an appropriate contract review meeting takes place with the contractor at an appropriately regular interval.

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Cabinet

- 7.1 Contracts valued in excess of £500,000 fall within the category of “Key Decisions” (Article 12) and must be published in the ~~Leader's~~ Forward Plan and may not be implemented until the Call-in process has been complete.
- 7.2 Any contract awards which: -
- constitute “Key Decisions” or
 - involve any potential transfer of the Council's employees to a supplier
- shall be referred for a decision to the Cabinet.
- 7.3 All decisions taken by the Cabinet or Portfolio Holder are regarded as “Executive Decisions” and therefore subject to scrutiny in accordance with the Council's Constitution. All other decisions taken under delegated authority shall be recorded and available for public inspection.
- 7.4 The Council will hold Corporate Directors, Group Managers and other such authorised officers accountable for any decisions they make under these Contract Standing Orders and/or the approved scheme of delegation or the failure to comply therewith.
- 7.5 These Contract Standing Orders must be read in conjunction with statute and case law and in any conflict with those the statute and/or case will take precedence. In these cases the Group Manager Legal and Democratic Services must be consulted.

8. Contract and Procurement Exemptions

Waivers of Contract Standing Orders

- 8.6 Waivers of any of these Contract Standing Orders shall only be given in exceptional circumstances and only with the prior written approval of the Group Manager Legal and Democratic Services after consultation with **Cabinet Member for Performance and Resources**, Corporate Director of Resources and relevant Corporate Director. Waivers may not be made retrospectively unless approved by the Cabinet or Council and will be recorded in the minutes of the meeting.
- 8.7 Where procurement is the subject of a report to Members, the report shall clearly state the specific Contract Standing Orders to be waived.

Comment [s22]: CEWG – 19.02.13

16. Land and Property

- 16.1 The disposal of land and property may only be undertake in accordance with the Council's Land and Property Disposal Policy and must be valued by an independent Valuer prior to disposal.
- 16.2 Where land is no longer required by the Council for the purpose for which it is held, or an alternative use, the Council shall agree the form and method of disposal in accordance with the Land and Property Disposal Policy. Where the matter has been delegated to a Corporate Director or the Gloucester Leadership Team (and subject to the agreement of local Members) planning consent for its most beneficial use shall be obtained.
- 16.3 Where land is to be disposed of by tender, tenders shall be invited by public notice in appropriate newspapers and journals; and Standing Orders 10, 11 and 12 shall apply.

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- 16.4 Where proposals are invited in response to a development brief, negotiations shall not be conducted with any one or more applicants unless the Council has considered a report on the legal, financial and other implications.
- 16.5 Where the disposal is by auction, it must be subject to a reserve price not less than a qualified valuer's current valuation.
- 16.6 Where the method of disposal is not by auction or public tender, the exchange of contracts shall not be authorised under this Standing Order unless the Council is satisfied, based on valuation advice, that the consideration offered is not less than the best that can reasonably be obtained or have agreed to an alternative method of disposal.

Land and Property Transactions

- 16.7 Every contract for the sale of land or property by the Council shall comply with these Standing Orders. In addition, the disposal of public open space and land at an undervalue shall be dealt with in accordance with Section 123 of the Local Government Act 1972 and any Ministerial Consent issued in respect thereof.

Exceptions

- 16.8 No exception to the provisions of Section 123 of the Local Government Act 1972 shall be made other than by
- (a) the Council; or
 - (b) the Cabinet; or
 - (c) in the case of urgency, a Corporate Director, after consultation with the Group Manager Legal and Democratic Services, relevant Cabinet Member.
- 16.9 A written record of the decisions and the reasons for them shall be made and be open for inspection by any Member of the Council.

Disposal of Land or Property

- 16.10 Except where the Cabinet or Council authorise some other means of disposal of land or property shall be disposed of only in one of the following ways:-
- (a) **Public Tender** in accordance with the procedure set out in paragraph 6.12
 - (b) **Public Auction** (see paragraph 16.5).
 - (c) **'Trading In' Goods** at the best price obtainable against the purchase of other goods on behalf of the Council.
 - (d) **Exchange for goods** or land of an equal value or subject to appropriate monetary adjustment where not of equal value. *Where authorised by the Council, the Cabinet, or a Corporate Director after consultation with the ~~Strategic Property, Estates and Valuation Services~~ **Asset** Manager, the relevant Cabinet Member.
 - (e) **Sale by Private Treaty** with not less than three prospective purchasers. *Where authorised by the Council, the Cabinet, or a Corporate Director after consultation with the ~~Strategic Property, Estates and Valuation Services~~ **Asset** Manager, the relevant Cabinet Member.
 - (f) **Sale to Another Local Council or Public Body** at District Valuer's valuation.
 - (g) **Sale in Accordance with a Statutory Requirement or Procedure**
 - (h) **Sale in Accordance with a Procedure Approved by the Council** to be in accordance with a procedure approved by the Council or ~~Strategic Property, Estates and Valuation Services~~ **Asset** Manager after consultation with the Cabinet.

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Asset Management

- 18.8 All Equipment and Other Assets not mentioned below of a value over £5,000 are required to be recorded in an Asset Management Database which is held by the relevant Corporate Director.
- 18.9 All Land and Property Assets valued over £5,000 are required to be recorded in an Asset Management database, which is held by the ~~Strategic Property, Estates and Valuation Services~~ **Asset** Manager.

Hardware and Software

- 18.11 All ICT Equipment, Hardware, Firmware, Software, Licences, Infrastructure, Data and Communication Lines, Mobile Phones, and mobile equipment are to be recorded in an ICT Asset Database which is held by the Group Manager, Business Transformation and Technology.

Specialist Equipment

- 18.12 All other equipment of value such as Office Equipment, Vehicles, Artefacts, Intellectual Rights etc is to be recorded in Departmental Asset Management Registers

19. Other Considerations

Environmental and Sustainability

- 19.1 The procurement of goods services, works will comply with the Council's environmental policy. Sustainability should be considered in all procurements and a needs analysis and impact assessment should be part of the decision making process. Wherever possible, subject to economical constraints, Gloucester City Council will procure from sustainable sources and where environmental damage can be minimised.
- 19.2 Suppliers will be expected to act in a manner commensurate with the Council's policies, and particularly with regard to Council policies on Equality and Diversity, Health and Safety, and sustainability.

Economic Development

- 19.3 Gloucester City Council believes that securing community benefits, such as creating new job and training opportunities for Gloucester people, is an appropriate core purpose. Using our definition of value for money and user requirements relating to community benefits such as:
- being directly relevant to the product or service being procured;
 - supporting the authority's objectives.

such community benefits should only be used at the selection stage if they can be measurable, and are clearly identified as such in the tendering guidance.

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EXECUTIVE PROCEDURE RULES

3. DECISION-MAKING BY INDIVIDUAL CABINET MEMBERS

- 3.01** All decision making powers must be exercised in accordance with the Law, all of the rules, procedures, codes and protocols contained in the Council's Constitution (including the Access to Information Rules) and within Council policy.
- 3.02** The decisions must be made in discussion with one or more of the following as appropriate:
- The Chief Executive
 - The appropriate Corporate Director
 - The Monitoring Officer or Deputy Monitoring Officer
 - The Chief Finance Officer
 - Where there are minor cross-cutting implications, other appropriate Portfolio Holder(s)
- 3.03** The Cabinet Member must take into account professional, legal and financial implications in making any decisions. If any of the above officers give advice that the decision would fall within one of the exceptions above then the matter shall be decided by the Cabinet acting collectively.
- 3.04** Where it is not clear in which Portfolio an issue sits, the Leader shall decide. If the appropriate portfolio holder is unavailable and the decision needs to be taken urgently, then the Leader may take the decision.
- 3.05** When a Cabinet Member takes an individual decision, the following steps must be taken:
- A detailed report must be published at least 5 clear working days prior to the decision being taken. Notice of when a decision is to be taken will also be included in the ~~Leader's~~ Forward Plan.
 - There will be the opportunity for representations to be made following the report being published. These will be forwarded to the decision maker.
 - Decisions will be recorded on a form and countersigned by one of the above officers to confirm that professional advice has been given and that legal and financial implications have been made known to the decision maker.
 - In the case of key decisions, the reasons for the decision must be identified and details of any alternative options considered and rejected at the time of the decision must be recorded. Key Decisions will also have to have been published in the Forward Plan in advance of the decision being taken.
 - The advising officer must keep a record of the decision that has been countersigned by the Cabinet Member and a copy of the form should be sent electronically to the Democratic Services Team.
 - The decision will be published electronically and members may still exercise the call-in facility in the same manner as for a full Cabinet decision.
 - A record must be made of any conflict of interest declared by a Cabinet Member, and in respect of any declared conflict of interest, a note of any dispensation granted
 - Where a Cabinet Member has a Disclosable Pecuniary Interest in a matter for which they have Individual Decision-making power, they must refer the matter to the Leader or to the Cabinet for decision.

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ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules apply to all meetings of the Council, Overview and Scrutiny Committee, Area Committees (if any), and Regulatory Committees and public meetings of the Cabinet (together called meetings). The term 'five clear working days' in this section and any other section of the Constitution shall exclude the day of dispatch of agenda/supporting documents and the date of the meeting.

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

The Council will give at least five clear working days notice of any meeting by posting details of the meeting at ~~the North Herbert~~ Warehouse, The Docks, Gloucester, GL1 2EP and on the Council's website.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on the Council's website at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Corporate Director of Resources shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection for the time the item was added to the agenda.

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 Corporate Director of Resources 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. ACCESS TO MINUTES ETC AFTER THE MEETING

The Council will make available copies of the following for six 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 when the meeting was not open to the public or which disclose exempt or confidential information;

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

8. BACKGROUND PAPERS

8.01 List of Background Papers

The author of each and every report where a decision is to be made will ~~set out~~ **include in the report** a list of those documents (called background papers) relating to the subject matter of the report which in the author's opinion:-

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

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Executive reports, the advice of a political advisor.

8.02 Public Inspection of Background Papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at ~~The North~~ **Herbert** Warehouse, The Docks, Gloucester, GL1 2EPQ.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.01 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, subject to the public interest test set out in the Local Government (Access to Information) (Variance) Order 2006.

10.02 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.

10.03 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.

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10.04 Meaning of Exempt Information

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

	Category	Condition
1	Information relating to any individual	Public Interest Test
2	Information which is likely to reveal the identity of an individual	Public Interest Test
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information falling within paragraph 10.03 above is not exempt information by virtue of that paragraph if it is required to be registered under - (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993. The category is also subject to the Public Interest Test
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority	Public Interest Test
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	Public Interest Test
6	Information which reveals that the authority proposes - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	Public Interest Test
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Public Interest Test
7a	In respect of the Standards Committee, information which is subject to any obligation of confidentiality;	
7b	In respect of the Standards Committee, information which relates in any way to matters of National Security;	
7c	The deliberations of the Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on any matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (6) or 71(2) of that Act.	

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Note relating to proposed development for which the local planning authority can grant itself planning permission

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.

Public Interest Test

Information which -

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 8 or the note above is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Corporate Director of Resources 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 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12. APPLICATION OF RULES TO THE CABINET

Rules 13-23 specifically 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 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 12.03 of this Constitution.

If the Cabinet or its Committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 12.03 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief Members.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a ~~notice~~ **document** (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least ~~five~~ **28** clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

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14. THE FORWARD PLAN

14.01 Period of Forward Plan

Forward Plans will be prepared by the Leader to cover a period of twelve months, beginning with the first day of any month. They will be prepared on **at least** a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.02 Contents of Forward Plan

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a Committee of the Cabinet, individual Members of the Cabinet, officers, Area Committees or under joint arrangements in the course of the discharge of an Cabinet function during the period covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) **that a key decision is to be made on behalf of the local authority;**
- (a) **(b)** the matter in respect of which a decision is to be made;
- (b) **(c)** where the decision **taker-maker** is an individual, his/her name and title, if any and where the decision **taker-maker** is a body, its name and details of membership;
- (c) **(d)** the date on which, or the period within which, the decision will be taken;
- (d) **(e)** the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) **(f)** the means by which any such consultation is proposed to be undertaken;
- (f) **(g)** the steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) **(h)** a list of the documents submitted to the decision taker for consideration in relation to the matter.

In addition to key decisions, the Forward Plan will include Budget and Policy Framework decisions. Proposals relevant to the Budget and Policy Framework are subject to a period of consultation and Overview and Scrutiny Committees have the opportunity to respond in relation to the consultation process. These arrangements are set out in the next section headed 'Rules and Procedure – Budget and Policy Framework'.

~~The Forward Plan must be published at least fourteen days before the start of the period covered. The Corporate Director of Resources will publish once a year a notice in at least one newspaper circulating in the area, stating:~~

- ~~(a) that key decisions are to be taken on behalf of the Council;~~
- ~~(b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;~~
- ~~(c) that the Plan will contain details of the key decisions (and Budget and Policy framework decisions) for the twelve month period following its publication;~~
- ~~(d) that each Plan will be available for inspection at reasonable hours free of charge at the Council's offices;~~
- ~~(e) that each Plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the Plan;~~
- ~~(f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;~~
- ~~(g) that other documents may be submitted to decision takers;~~
- ~~(h) the procedure for requesting details of documents (if any) as they become available; and~~

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(i) ~~the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.~~

~~Exempt information need not be included in a Forward Plan and confidential information cannot be included. **The Forward Plan must contain particulars of all matters, but may not contain any confidential, exempt information or particulars of the advice of a political advisor.**~~

15. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the Forward Plan **Where the publication of the intention to make a key decision under Rule 13 is impracticable**, then subject to Rule 16 (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 Forward Plan and until the start of the first month to which the next Forward Plan relates;~~
- (b) **(a) where** the Corporate Director of Resources has informed the Chair of Overview and Scrutiny Committee, or if there is no such person, each Member of that Committee **by notice** in writing, ~~by notice~~, of the matter ~~to~~ **about** which the decision is to be made;
- (c) **(b) where** the Corporate Director of Resources has made copies of that notice available ~~to the public at the offices of the Council~~ **for inspection by the public and published on the Council's website, a copy of that notice**; and
- (d) **(c) at least three after five** clear days have elapsed since the Corporate Director of Resources ~~complied with (a) and~~ **made available the notice referred to in (b)**.

As soon as reasonably practicable after the Corporate Director of Resources has complied with (a), (b) and (c), he or she must:

- (a) make available at the offices of the Council a notice setting out the reasons why compliance with Rule 13 is impracticable; and**
- (b) publish that notice on the Council's website.**

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

16. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken ~~Where the date by which a key decision must be made, makes compliance with~~ Rule 15 (general exception) cannot be followed ~~impracticable~~, then the decision ~~can~~ **may** only be taken if the decision ~~taker~~ **maker** (if an individual) or the Chair of the body making the decision, ~~has obtained~~ **obtained** the agreement of ~~from~~ **from** the Chair of a relevant ~~the~~ Overview and Scrutiny Committee that the ~~taking~~ **making** of the decision ~~is urgent and~~ cannot be reasonably ~~be~~ deferred. If there is no Chair of a relevant ~~the~~ Overview and Scrutiny Committee, or if the Chair of ~~each relevant the~~ Overview and Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in his/her absence the Vice-Chair will suffice.

As soon as reasonably practicable after the decision maker has obtained the required agreement that the decision is urgent and cannot reasonably be deferred, the decision maker will:

- (a) make available at the offices of the Council a notice setting out the reasons why that decision is urgent and cannot reasonably be deferred; and**
- (b) publish that notice on the Council's website.**

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17. REPORT TO COUNCIL

17.01 When an Overview and Scrutiny Committee can Require a Report

If an Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) ~~included in the Forward Plan; or~~
- (b) ~~the subject of the general exception procedure; or~~
- (c) ~~the subject of an agreement with a relevant overview and Scrutiny Committee Chair, or the Chair/Vice Chair of the Council under Rule 16;~~ **treated as being a key decision** the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Corporate Director of Resources, who shall require such a report on behalf of the Committee when so requested by (the Chair or any five Members). Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

17.02 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 is within seven days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out ~~particulars of the decision~~ **and the reasons for the decision**, the individual or body making the decision, and if the ~~Leader~~ **Cabinet** is of the opinion that it was not a key decision the reasons for that opinion.

17.03 Reports on Special Urgency Decisions

The Leader will submit a report to the next possible meeting of the Council on Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency). The report will include the ~~number~~ **particulars of each decision taken made** and a summary of the matters in respect of which those decisions were taken.

18. RECORD OF DECISIONS

~~As soon as reasonably practicable after~~ **After** any meeting of the Cabinet or any of its Committees, whether held in public or private, the Corporate Director of Resources or, where no officer was present, the person presiding at the meeting, will produce a ~~record~~ **written statement of for every decision made including: taken at that meeting as soon as practicable. The record will include**

- (a) **a record of the decision including the date it was made;**
- (b) ~~a statement~~ **record** of the reasons for ~~each the~~ decision;
- (c) ~~and details of~~ any alternative options considered and rejected at that meeting;
- (d) **a record of any conflict of interest relating to the matter decided which is declared by any member of the Cabinet; and**
- (e) **in respect of any declared conflict of interest, a note of dispensation granted by the Council.**

Comment [t23]: Covers dispensations granted by the relevant Proper Officer – CE or MO.

19. CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

The Cabinet will decide whether meetings relating to matters which are not key decisions will be held in public or private.

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20. NOTICE OF AND PROCEDURES PRIOR TO PRIVATE MEETINGS OF THE CABINET

~~Members of the Cabinet or its Committees will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.~~

At least 28 clear days before a private meeting, including any part of a meeting to be held in private, the Cabinet will make available at the offices of the Council a notice of its intention to hold the meeting in private setting out the reasons for the meeting to be held in private and publish that notice on the Council's website.

At least five clear days before a private meeting, , including any part of a meeting to be held in private, the Cabinet will make available at the offices of the Council a further notice of its intention to hold the meeting in private; and publish that notice on the relevant local authority's website, if it has one. The notice will include:

- a. a statement of the reasons for the meeting to be held in private;
- b. details of any representations received by the Cabinet about why the meeting should be open to the public; and
- c. a statement of its response to any such representations.

Where the date by which a meeting must be held makes compliance with this regulation impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from the Chairman of the Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred, or if there is no such person, or if the Chairman of the Overview and Scrutiny Committee is unable to act, the Chair of the Council, or in his/her absence the Vice-Chair will suffice.

As soon as reasonably practicable after the Cabinet has obtained the required agreement to hold a private meeting, it will:

- a. make available at the offices of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- b. publish that notice on the Council's website.

21. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET AND OFFICERS

~~21.1~~ Reports Intended to be Taken into Account

~~Where an individual Member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five clear days after publication of that report.~~

~~21.2~~ Provision of Copies of Reports to Overview and Scrutiny Committee

~~On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of every relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.~~

~~21.31~~ Record of Individual Decision

As soon as reasonably practicable after an Cabinet decision has been taken by an individual Member of the Cabinet or an key executive decision has been taken by an officer, he/she will prepare, or instruct the Corporate Director of Resources to prepare, a ~~record~~ written statement of the decision including:

- (a) a statement record of the decision including the date it was made;
- (b) a record of the reasons for the decision;

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- (c) details of and any alternative options considered and rejected at that meeting;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the Cabinet; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council.

21.2 Inspection of documents following individual decisions

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

- (a) any records prepared in accordance with Rule 21.1; and
- (b) any report considered by the individual member or officer and relevant to a decision recorded in accordance with Rule 21.1.

~~The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political or Mayor's assistant.~~

The provisions of Rule 8 will also apply to the making of decisions by individual Cabinet Members and executive decisions by officers (background papers) and, furthermore, one copy of any background papers will be made available for inspection at the Council offices and on the Council's website.

22. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS

22.1 Rights to Copies

Subject to Rule 22.2 below, a Member of the Overview and Scrutiny Committee (including its sub-committees) 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 executive decision that has been made by an officer.

Documents requested will be provided within 10 clear days of the request except where the Cabinet or relevant officer determines that the Member is not entitled to a copy of the document. Where such a decision is made, the Cabinet or relevant officer must provide the Overview and Scrutiny Committee with a written statement of the reasons for that decision.

22.2 Limits on Rights

Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of the 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 advisor.

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

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previously transacted at a private meeting, **any decision made by an individual Cabinet Member, or any decision made by an officer within 24 hours** unless either (a), or (b) or (c) below applies.

(a) **it contains confidential information; or**

(a) **(b)** it contains exempt information falling within paragraphs 1, **2, 4, 5, 7** to 7e, of the categories of exempt information; or

(b) **(c)** it contains the advice of a political advisor **or assistant**.

23.2 ~~Material Relating to Key Decisions~~

~~All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which relates to any key decision (and Budget and Policy Framework decision) unless paragraph (a) or (b) above applies.~~

23.32 ~~Nature of Rights~~

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

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**PLANNING AND DEVELOPMENT -
CODE OF PRACTICE**

Revised July 2012

**A guide to the protocol and procedures to be followed by
Officers and Members in relation to Planning and Development
matters including Planning Applications, the Local
Development Framework Development Plan and discussions
with developers**

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Introduction

Gloucester City Council's Planning Committee makes statutory decisions on Planning and related applications. Officers decide most applications, in fact about 90%, under powers delegated to the Corporate Director of Regeneration. Applications determined under "delegated powers" tend to be minor and straightforward proposals. The Planning Committee deals with major and contentious applications so their decisions are often significant, weighty and have a considerable effect on the value of land as well as the lives and amenities of people living near development sites. Furthermore if the Committee makes a wrong or reckless decision this may mean that the Council has to pay substantial costs if it fights and loses an appeal, or if its decision is the subject of a legal challenge from an aggrieved third party.

The principles upon which decisions must be made are set out in legislation in the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004. Both acts require decisions to be made in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. Under the 1990 Act, the "Development Plan" comprises the County Structure Plan and any adopted Local Plan. Under the 2004 Act, the "Development Plan" comprises the Regional Spatial Strategy and the ~~Development Local Plan Development Framework~~.

Although this statutory duty is clear, planning decisions depend to a greater or lesser degree upon judgement and interpretation of policies and guidance. It is therefore essential that decisions are made having regard only to proper planning considerations and are made impartially and in a way that does not give rise to public suspicion or mistrust.

The same principles apply to decisions and recommendations that are made by Members and Officers in relation to the development plan process, particularly decisions and recommendations which might involve the allocation and thus the value of land.

The purpose of this local Code of Practice is therefore to set out in detail how Members and Officers should act and the procedures which should be followed to ensure that they not only act in a fair and proper manner, but are also seen to do so.

This Code has been prepared with a particular emphasis on Members who serve on the Council's Planning Committee but its content is also relevant to all other Members and also to Officers both within Planning Services and in all other service units. In short, any Member or Officer who has any contact with, or input in to, the Planning process including the ~~Local Development Framework~~ Development Plan and during discussions with landowners and developers has a probity responsibility. It should be noted that there are other rules and requirements in respect of Officers.

The City Council, along with all other local authorities, has adopted a Code of Conduct, which specifies the obligations imposed on Members and defines pecuniary and non-pecuniary interests and how these will affect the way a Member behaves. That Code of Conduct, which every Member has signed up to, is the statutory base to which this Code of Practice is added. In some areas this Code of Practice will extend, or go further than the Code of Conduct. In the case of a conflict between the two the Code of Conduct will take precedence.

It is possible that breaches of this Code of Practice could be considered to be a breach of the Code of Conduct.

This Code of Practice forms part of the Council's Constitution, which sets out how the Council will operate, how decisions are made and the procedures to be followed in order to ensure that these are efficient, transparent and accountable to local people.

A copy of the Council's Constitution can be viewed online via the following link:

[Constitution 2012-13](#)

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PART A – GENERAL PRINCIPLES

Gifts and Hospitality

- A1. *Councillors and Officers must abide by the Council's requirement in respect of Gifts and Hospitality as set out in the Code of Conduct for Members and the Officer Code of Conduct which are part of this Council's Constitution.***

Members and officers must be extremely careful in this respect to ensure that no question of bias can be raised. The general rule is that no gifts should be accepted and only modest hospitality connected with the work concerned should be accepted.

Declarations of Interest

- A2. *Members must always declare their interests in accordance with the Council's Code of Conduct.***

The Council adopted its Code of Conduct on the 19 July 2012. The Code of Conduct is contained in the Council's Constitution and must be read in conjunction with this Code of Practice.

All interests must be disclosed at the start of the meeting or when such interests become apparent, and an agenda item on this is included for every meeting.

Depending on the nature of the interest (disclosable pecuniary interest, non-disclosable pecuniary interest or personal interest), the Member may not be allowed to participate in the discussion or vote on the matter unless a dispensation has been granted. They must also not seek to improperly influence any decision on that matter.

The test Members should apply is not whether they themselves think they have an interest but whether others, knowing the relevant facts, would think they have. If a Member has any doubt advice can be taken, but if that doubt still remains it is best that an interest be declared. However, the responsibility for declaring an interest must lie on the Member.

There will however, be times when it only becomes apparent during the meeting that there is a declarable interest. Then the interest must be declared as soon as the Member becomes aware of it, even if it is during discussions on that particular item. The duty is on each Member to declare interests and these will be noted in the Committee minutes.

The Monitoring Officer should be informed of any declarable interests which should also be registered in the Register of Members' Interests.

Involvement with Agents, Developers and Landowners

- A3. *Councillors and Officers who are involved in the planning process should not act as agents to other parties, or submit planning applications, objections and/or LDF Development Plan representations on behalf of other parties or volunteer bodies.***

Any close involvement, or even perception of close involvement, with a planning application or proposal can compromise the integrity of the planning process. A Member acting as a planning agent could give rise to suspicion that the Member was not impartial, or may influence other Members in the decision making process.

Where Members need to submit Planning applications or LDF Development Plan representations on their own behalf, or on behalf of their employer as part of their job, they must declare an interest and take no part in the processing of the application or in the decision making process. Decisions on any proposals submitted by or relating to land owned or controlled by a serving Member should only be determined by the Planning Committee (or Full Council). The same rule applies if a Member's employer submits an application,

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irrespective of whether the Member is involved in the application, its preparation or submission.

There will be very rare occasions when planning decisions need to be made by Full Council, not Planning Committee. In such instances, any Councillor who has acted as an agent or submitted the application being considered whether personally or on behalf of another party should declare an interest and take no part in voting on the matter.

- A4. Any Member who is a planning or similar agent will not be appointed to either the Planning Committee, Planning Policy Sub-Committee or the LDF Member Working Group and should not be nominated as a substitute. At Cabinet/Council meetings any Councillor who is acting as a planning agent should declare this role and withdraw from any discussion/decision where a clear conflict of interest can be seen to exist.**

Even if they do not practice in Gloucester, the Member will not be appointed to the Planning Committee. This is in view of the potential for members of the public to view their work as possibly affecting their consideration of planning applications and **LDF Development Plan** matters.

- A5. Councillors or Officers should not enter into a commercial agreement with a developer or landowner in respect of a particular development opportunity as to do so would bring into question the integrity of the planning process.**

Clearly, significant sums of money can be made through the development process and it is vital that Councillors and Officers do not seek to enter into any sort of agreement with a landowner/developer in relation to the promotion of a development site, as to do so would bring into question the integrity of the planning process.

- A6. Members should not seek to advise applicants or agents about the likely acceptability of planning proposals including potential planning applications and land use proposals that are being promoted through the LDF Development Plan process.**

Pre-application discussions should always be undertaken by the Council's Planning Officers to ensure that advice is given professionally, comprehensively and in a way that is clearly removed from the political forum. Planning Committee and Planning Policy Sub-Committee Members should advise prospective applicants to contact the appropriate Officer for advice on both merits and procedures. If Members, whether they sit on Planning Committee or Planning Policy Sub-Committee or not, do give an indication of their initial reaction to a proposal they must make clear that any proposals will need to be formally considered by Officers and/or the Planning Committee or Planning Policy Sub-Committee. They should also make clear that Officers and/or the Planning Committee or Planning Policy Sub-Committee could only make a final decision after a full and formal consideration of the proposal.

Similarly with regard to negotiations and discussions in respect of submitted applications Members should not normally be involved. There may be exceptional circumstances in respect of major or contentious applications where there may be merit in Member involvement to explain a particular local viewpoint or issue. However such discussions should take place only where at least one professional Planning Officer is present. Officers will make a written record of any such meetings held and will place a copy of this record on the office working file. Such a record will constitute a Background Paper for the purposes of the Access to Information Act and may be inspected by any member of the public.

The fact that Planning Committee or Planning Policy Sub-Committee Members have discussed any such proposal with the applicant or objectors must be made clear when the application or **LDF Development Plan** matter is before the Committee for determination. Under no circumstances should Members put pressure on Officers to make, or change, any recommendations on an application or **LDF Development Plan** matter.

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- A7. Following the submission of a planning application or LDF Development Plan representation, Members should not themselves, enter into negotiations with the applicant/objector but should leave any such negotiation to Planning Officers.**

The Council employs professional Planning Officers whose job is to deal with the applications and LDF Development Plan representations received, ensure the necessary publicity requirements are dealt with, negotiate with the applicant and/or their agents, and then report to Committee with their recommendations.

The Officers do have pre-application discussions which will try to assist applicants to submit applications in accordance with Council policies and to assist with the smooth processing of the application or consideration of LDF Development Plan representations.

The Officers will always put forward their professional planning view to Committee and be available to answer Members questions.

- A8. Officers will not enter into negotiations concerning any land or proposal in which they have a direct or indirect interest.**

Clearly such a situation would give rise to suspicion that the Officer in question was not necessarily acting in an entirely impartial manner and will therefore not be acceptable.

- A9. Subject to the requirements of the Freedom of Information Act or any other relevant legislation, Councillors and Officers should seek to respect the wishes of landowners and developers who intend their proposals to remain confidential until such time as there is a legal obligation to make any such proposal known such as the submission of a planning application or the formal publication period in respect of the ~~Local Development Framework~~ Development Plan.**

There may be occasions when developers or landowners wish to seek the views of Councillors and/or Officers concerning particular development proposals, but wish to do so in an entirely confidential manner due to commercial or contractual requirements.

Councillors and Officers will respect such wishes and will only make the proposal known publicly either when the developer agrees or alternatively when there is a legal obligation to make such information available, for example where it has been requested by a third party under the Freedom of Information Act.

- A10. Officers and Members will exercise particular care in relation to telephone conversations concerning planning matters. Where practical, a note should be completed and filed immediately after the conversation.**

In some instances, those involved in the same telephone conversation can come away with entirely different recollection of the issues discussed. For the avoidance of doubt it is considered appropriate for Officers and Members to complete a short file note following any telephone conversation had with a developer, landowner or other interested party.

Meetings with Agents, Developers and Landowners

- A11. Members should try not to meet a developer or landowner alone. Where this is unavoidable, particular care should be exercised and where practical, the content of the meeting recorded as accurately as possible.**

In order to ensure the integrity of the planning process it is considered inappropriate for Members to meet a developer on their own. At least two representatives of the Council should be in attendance (including at least one Officer) in order to ensure that an accurate record of the meeting may be obtained.

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A12. Where Councillors and / or Officers are invited to attend meetings by landowners and developers, accurate and comprehensive records of any such meeting must be kept for a reasonable period of time (i.e. at least 12 months after the completion of the LDF Development Plan process or the determination of a planning application).

In the event that a Councillor and Officer are invited to attend a meeting held by a landowner/developer, they should at all times act in an impartial manner and should keep a record of the meeting on an appropriate file. In the interests of transparency and accountability it is vital that detailed records of any meetings are kept until the completion of the LDF Development Plan or planning application process. This will ensure that any subsequent queries can be answered with certainty.

A13. Members and officers meeting a developer must make it clear that any discussions held during meetings cannot bind the Council to any course of action.

It is essential that any view expressed during a meeting is not taken to represent the view of the City Council as a whole.

A14. Similarly, in discussing specific developments/localities/topics with developers, Members and Officers must act without prejudice, taking into account and basing any opinions expressed, on relevant planning issues only. This principle must apply throughout the Council's decision-making process.

It is vital that any opinions expressed about particular development proposals are made without prejudice, are based on the most appropriate use of a site in planning terms and Members in particular must avoid expressing a view on granting, or refusing, the application.

In cases where a 'Project Management Board' has been established under the Prince 2 project management system to deal with a development proposal, the following principles will apply to meetings with developers, agents and landowners:

A15. All meetings will be properly and accurately recorded and reported to the respective Project Boards.

A16. Appropriate members of the respective Project Board must normally be invited to attend. This would likely be the Project Manager and/or Executive.

A17. In the event of a project board member being unable to attend, advice on the current status of the project should be sought by the Member/officer concerned.

A18. Senior Members/officers involved in the meeting must make themselves familiar with the Project Business Case, and at all times recognise the primacy of it in any discussions which should be complementary to the direction of the project.

A19. Records of all discussions and meetings should be provided for the specific Project Manager who will ensure it is placed on the file records.

For reasons such as policy formulation and access to project documentation and officer support, it is recognised that opposition Members may not be able to fully adhere to all of the requirements set out in points A15 – A19 above. In these circumstances, the following general principles should be applied:

A20. The general spirit of propriety within the Code of Practice should be respected.

A21. The integrity of the Council must not be compromised.

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- A22. No promises or indications of positions which would, or may be adopted should be given which may lead a potential developer to believe that, at some future date, the policy of the Council would favour any development scheme or developer.**
- A23. Members must not negotiate with developers or landowners on planning policy and must adhere to Council policies.**

Independence and Impartiality of Planning Officers

- A24. Officers must always act impartially and advise the Council of their professional opinion.**

The City Council's Planning Officers must always act impartially to give advice based upon a professional assessment of the Planning merits of each case taking in to account the relevant planning policies and other relevant material considerations. If they do not, or even if it appears that they are not, the integrity of the Planning process is severely compromised. Chartered Town Planners must abide by the Royal Town Planning Institute's Code of Professional Conduct.

Chartered Town Planners may only advocate their own professional view and cannot be required to attend or advise party political meetings. Whilst Chartered Town Planners may appear as the Council's expert witnesses to present the Council's case at Planning Inquiries they must, if asked, give their own professional view in accordance with the Royal Town Planning Institute's Code of Professional Conduct. This is particularly pertinent where an appeal has been made against a decision made against Officer recommendation although Officers will always present the Council's case to the best of their ability.

Submission of Planning Applications and ~~LDF~~ Development Plan Representations by Officers and Councillors

- A25. If an Officer or Councillor submits a planning application, an objection to a planning application or a representation in response to the ~~Local Development Framework~~ Development Plan, he or she cannot deal directly with that application or representation.**

Any close involvement, or even perception of close involvement could compromise the integrity of the planning process and may give rise to suspicion that the Officer or Member in question was not necessarily acting in an impartial manner.

- A26. In considering planning applications, objections and ~~LDF~~ Development Plan representations submitted by Councillors and or other Officers, Planning Officers will make no distinction between these and any other cases.**

Clearly, no distinction should be made between a representation or planning application received from a Councillor or Officer of the Council and one which has been received from a member of the public or landowner.

Any decision will therefore be based solely on relevant planning issues with no regard had to any indirect or direct connection between the applicant/objector and the City Council.

- A27. Applications by Councillors, Officers or their Relatives or Friends**

These applications must be dealt with, and be seen to be dealt with, openly, fairly and without any bias. Accordingly despite the scheme of delegation to officers to decide certain application, all such applications will be reported to Committee.

PART B – THE DECISION MAKING PROCESS

Lobbying of Councillors

B1. Any lobbying of Members must be dealt with carefully to minimise any perception of influence

This is a complex area and one that requires special care. Lobbying is an attempt to influence a Member's view by way of letter, telephone call, meetings or documents in order to achieve a particular decision. It can be by applicants, or their agents, objectors or other Councillors. It is a normal part of the political process but where Members are making statutory decisions, such as planning decisions it can result in decisions being made improperly.

Members should treat lobbying with care and should ensure that 'unofficial' views, promises or documents do not unduly influence them. Members should advise lobbyists to present their views in writing to the relevant Planning Officer. Alternatively, Members may choose to pass on the views and or submissions of lobbyists to the relevant Planning Officer but in doing so should make it clear that they are not giving their own views as this is a matter for formal consideration by Members.

Members should take particular care when attending public meetings and should remain impartial without expressing a view one-way or the other. Where the view of a Member on a particular development proposal has been expressed in public, this must be declared by that Member when the matter is next considered by Planning Committee, Planning Policy Sub-Committee, Cabinet or Council.

Planning decisions must be made strictly on the basis of the facts and policies relating to each case. Members must not only act in a way that is fair to all parties but must be seen to do so. In particular, Members must not prejudge proposals before they have read the officer's reports and considered all the evidence.

It can cause particular problems if Members are given information or assurances by applicants that are not part of the formal application or proposal and which are not therefore enforceable. Problems can also arise if Members are given information by objectors which may be misleading untrue or irrelevant. It is also problematical if officers are unaware of submissions by applicants and objectors and are therefore unable to consider them and advise the Committee about their relevance or enforceability.

This would cause particular problems if the Committee based a refusal on those matters which officers had not had an opportunity to consider and comment upon.

Circulation of unofficial papers at a Committee meeting also constitutes lobbying. Planning applications must be determined on the basis of the documents and information formally submitted. Only submissions from applicants, agents or objectors, which are formally received by Planning Officers, can properly be taken into account in making a decision. The Committee could be materially misled if Members or other parties circulated 'unofficial' documents or introduced new information on behalf of an applicant or objector, or expressed what they believed to be an applicant's intention, if this did not form part of the application documents and correspondence which had been submitted to Development Services. In all circumstances copies of any letters, documents or correspondence should be given to the Planning Officer to consider and comment on.

B2. Planning Committee Members should not organise support for or against a planning application and should not lobby other Councillors.

Planning Committee Members should not place themselves in a position where they may give the impression that they had made up their mind before hearing the evidence. Each Councillor should make up his or her own mind on the evidence and facts presented to the

Committee. With regard to other Councillors, they must not seek to influence Planning Committee Members or give that impression.

- B3. Councillors or Officers within the Council must not instruct or put pressure on Planning Officers to make or not to make a particular recommendation on a planning application or matter relating to the LDF Development Plan including in particular the allocation of land.**

The City Council's Planning Officers must always act impartially to give advice based upon a professional assessment of the planning merits of each proposal taking into account relevant planning policies and other material considerations. If they do not, or even if it appears that they are not, the integrity of the planning process is severely compromised.

Chartered Town Planners may only advocate their own professional view and cannot be required to attend or advise party political meetings.

- B4. Where a Member has been actively lobbied through the submission of written correspondence, any such correspondence should be reported to other Members and Officers when the matter is discussed at Planning Committee, Planning Policy Sub-Committee, Cabinet, Council and any other relevant meeting.**

Where lobbying has occurred, the Councillor who has been lobbied should make other Councillors involved in the decision making process, aware of such an approach as well as Officers who may be responsible for making recommendations in respect of the proposal in question.

Reports to Planning Committee/Cabinet/Council

- B5. Officers will, with the exception of matters of urgency, provide written reports for all matters to be considered by the Planning Committee, Planning Policy Sub-Committee, Cabinet and Council and where appropriate for ~~the LDF~~ any Member Working Group.**

There will be occasions when matters arise after the committee papers have been prepared and sent out, but a decision of Committee will be required. If possible a written report will be tabled, or if this is not possible the Development Services Manager will provide a detailed verbal report on the issue, explaining why it is urgent and providing recommendations. This shall be minuted.

Members are also permitted to raise matters of urgency under the Local Government Act 1972. However if they do intend to do this, the Planning Officers should be informed prior to the meeting of the nature and content of the matter. Officers will attempt to answer any questions, but depending on the length of notice of the matter of urgency this may not be possible at that meeting.

Any matters of urgency can only be raised with the agreement of the Chair of Planning Committee who must give reasons as to why it is considered to be an urgent item.

- B6. Officer reports will always be accurate and cover all relevant considerations and issues including where relevant, the views of consultees and objectors.**

- B7. Reports to Planning Committee will each give a clear recommendation that will normally be that of the Development Services Manager.**

In exceptional circumstances where, at the time of publication of the report, negotiations are still ongoing or an essential consultation or other response is awaited, Officers will give an oral recommendation and this will be minuted.

If the report is not by the Development Services Manager the reason for this will be included in the report.

- B8. Members must read and carefully consider the content of Officer reports before the relevant meeting and must have regard to the content of the report in reaching a decision. Where a Member or Members require further clarification on any particular matter, this should be raised with the Development Services Manager in advance of the Planning Committee meeting so that an informed response may be prepared and in order to avoid any unnecessary delay in the consideration of the application.**

Written reports are a cornerstone of probity in the modern Planning system. The Audit Commission and a number of reports in respect of Planning malpractice have made quite clear that written reports are essential.

Officers will therefore prepare written reports on all planning matters being considered by Planning Committee, Planning Policy Sub-Committee, Cabinet and Council.

Matters to be discussed by Members at ~~the LDF a~~ Working Group will generally be supported by a written report, however, on occasions, for the sake of expediency, it may be necessary to provide Members of the Working Group with an oral report.

Voting and Impartiality

- B9. Planning Committee Members must vote in the planning interests of the City as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced planning assessment in the light of wider planning policies and planning guidance. The same principle applies to Members who are required to make decisions on matters relating to the ~~Local Development Framework~~ Development Plan including Cabinet, Council, Planning Policy Sub-Committee and ~~the LDF any~~ Member Working Group.**

If the planning system is to work properly it is essential that in voting on all planning matters, Members do so based on the advice set out in the Officer report and not in the pursuit of their own personal or ward interests or even someone known to them. This is likely to be a breach of the National Code of Conduct and can lead to disqualification or other sanction.

- B10. Members of the Planning Committee must not declare which way they intend to vote in advance of the consideration of an application by the Planning Committee.**

This can be a difficult issue for Members as they may be exposed to pressure from residents or the media to express a particular viewpoint. However it is essential that Members are measured and circumspect in the comments they make. If a Member declares which way they intend to vote it would in effect be pre-judging the application without having considered all of the relevant information. This could expose the Council to the possibility of legal challenge or charges of maladministration. Members must not make their minds up until they have read the relevant committee reports and heard the evidence and arguments on both sides, at committee.

- B11. If a Member of the Planning Committee (including a substitute Member) does declare his or her OUTRIGHT support or opposition for a proposal before the matter has been put before the Planning Committee, he or she must make an open declaration of their view to the Planning Committee and take no part in the voting on that particular item.**

This rule follows on from Rule B10 above. It does not mean that Members of the Planning Committee cannot reflect local concerns about a proposal before the Planning Committee considers it. However, the view or comment must not pre-determine or be seen to pre-determine the way that Member will vote.

B12. Councillors who may also be Members of either a Parish Council or Gloucestershire County Council must exercise particular care in reconciling their two roles in making decisions on planning applications and Local Development Framework Development Plan matters.

Any Member serving a 'dual-function' must exercise great caution. They may for example be required to express a view or vote on a particular proposal at a Parish or County Council meeting and should in any such case, abstain from the debate/vote. This is not inconsistency, but the consequence of having to fulfil two totally separate roles.

If a Member does declare his or her outright support or opposition to a proposal through another forum such as a Parish or County Council meeting, they must make an open declaration when the matter is discussed at the City Council Planning Committee, Planning Policy Sub-Committee, Cabinet or Council meeting and take no part in voting on that matter.

The Code of Conduct must be carefully considered here. The interest is likely to be a disclosable pecuniary interest and could affect the Member's ability to participate in the decision.

B13. All Councillors must not favour or show, or appear to favour or show, bias towards any particular person, company or group, or any particular site or locality in the exercise of any planning function.

Decisions Involving Council-Owned Land

B14. In making decisions in relation to Council-owned land, Officers and Members will base their assessment on relevant planning issues only and will have no regard to financial or any other benefits that might accrue as a result. (This principle applies to both the determination of planning applications and the allocation of land through the LDF Development Plan process).

The Council's own proposals, or those of others on Council owned land, must be dealt with on exactly the same basis as applications and representations submitted by any other applicant/landowner, particularly as there are special Regulations under which to consider them.

Members must not have any regard to any other benefit, financial or otherwise, which may accrue to the Council as a result of any particular decision on a planning proposal. All planning applications and representations, irrespective of the applicant, must be considered and dealt with on the planning merits, not any extraneous gain or loss that might accrue to the Council.

B15. In particular, Officers and Members will ensure that decisions to allocate Council-owned land are based on the most appropriate use or mix of uses and not on the basis of which use or uses would yield the highest land value.

Clearly certain land uses such as residential and retail in particular have a higher land value than others and as such it is important that in seeking to allocate land that is owned by the City Council, Officers and Members make any such recommendation and decision on the use that is most appropriate for the site given its location and surrounding uses and not with regard to which use will yield the highest land value.

B16. Other proposals that may have an impact on a Council land holding or proposal must also be dealt with strictly on their planning merits. (This principle applies to both the determination of planning applications and the allocation of land through the LDF Development Plan process).

These circumstances present special challenges to ensure that the planning system operates, and is seen to operate, fairly.

Political Decisions

B17. Decisions on planning applications and LDF Development Plan matters or the establishment of 'party lines' cannot be made in political group meetings prior to a Planning Committee or Cabinet/Council meeting.

The view of the Ombudsman is that 'the use of political whips at group meetings is contrary to the National Code and amounts to maladministration'. It could also give rise to a legal challenge of any decision by judicial review.

Deferrals and Committee Site Visits

B18. Where Members propose to defer the consideration of a planning application they must set out clear planning reasons for doing so and these will be minuted.

B19. All site inspections will be conducted in a strictly 'fact-finding' manner and there shall be no on-site debate about the merits of the proposal or any negotiations or discussions with the applicant, agent or residents.

B20. In the event that a site visit is considered necessary to assist Members in deciding on a matter relating to the ~~Local Development Framework~~ Development Plan, the same principles will apply.

A proposal to defer an application must be made on clear planning grounds. Justification for deferring a decision might be to ensure that all the proper consultation procedures have been followed or to secure amendments without which the application would have to be refused. The reason for deferring for a site visit must be clearly set out by the proposer and recorded in the minutes. Political expediency such as deferring a contentious application until after elections is never an acceptable course of action.

Committee Process

B21. The Council's Standing Orders will apply to the conduct of business.

There are also some good practice rules to assist the smooth operation of the Committee and promote probity. These are:

- Members should not report new information that they may have been given by applicants or third parties, which has not been submitted to Officers for formal consideration and comment.
- Members should seek any necessary clarification from Officers on key issues **before** the meeting as this enables fuller and better-researched answers to be given.
- Members should not introduce non-planning related matters to the debate.
- Members should not speak at length on items where they are in full agreement with the Officer report.

- The Chair will always afford Officers the opportunity to respond to questions and points made by Members.
- At the discretion of the Chair of the Planning Committee, Ward Councillors may be allowed to speak at Planning Committee to express their own views or those of their constituents.

B22. Speaking at Planning Committee

The Council permits applicants and objectors the right to address the Committee for 5 minutes prior to the consideration of an application by the Committee. Generally speaking, only one person for, and one person against, the application may speak and only on planning considerations and matters raised with officers beforehand. ~~In the case of complex applications~~ **Occasionally**, at the discretion of the Chair, more than two speakers may be permitted although an equal ~~number of~~ **amount of time for** speakers for and against will be ~~required~~ **allowed**.

If there are a large number of supporters, or objectors, then generally only one representative of each may address the Committee unless otherwise agreed by the Chair to speak. Their names must be provided to the Chair prior to the Committee starting. Ward Councillors will be allowed to speak on an application at Planning Committee provided that they do not have a prejudicial interest. The Council has prepared a separate guidance note on the procedures to be followed in speaking at Planning Committee. This is available from the Planning Department and is also online.

Planning Committee Decisions

B23. Where Members propose to make a decision contrary to the Officer recommendation, clear planning reasons must be established and these must be seconded and minuted.

The Member, or Members, proposing the decision contrary to the report recommendations, must give clear planning reasons for their proposal before any vote is taken. Their reasons must be relevant and material planning considerations.

B24. In cases where Members propose to make a decision contrary to an Officer recommendation, the Chair will allow the Development Services Manager to comment before a vote is taken.

It is a requirement of the Town and Country Planning Act 1990 and the 2004 Planning and Compulsory Purchase Act that decisions must be in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. However, decision-making often requires assessment and judgement of the weight to be attached to certain policies and issues and no Development Plan no matter how current will ever provide an answer for all, or even most, applications. Any decision contrary to the provisions of the Development Plan must be clearly justified and recorded. The personal circumstances of an applicant will hardly ever provide such grounds.

These principles do not apply directly to decisions pertaining to the drafting of the ~~Local Development Framework~~ **Development Plan**. However, there will be occasions when Members make decisions that are not in accordance with the recommendations of Officers. In such cases, the general principles set out above will apply, in particular, the reason for the decision must be justified and minuted.

Public Attendance

B25. All planning matters on Planning Committee, Planning Policy Sub-Committee, Cabinet and Council agenda will be considered in public session.

Open debate is a fundamental pre-requisite of probity in the planning system.

Applicants, agents, supporters or objectors to an application do have a right to address the Planning Committee, but this is limited to one in support and one in opposition. Other than this no other person shall be allowed to speak or make recommendations at the Committee. Any member of the public who disrupts the meeting in any way will not be allowed to remain in the room.

B26. Great care should be taken by Members mingling or speaking to applicants or objectors.

Members should be extremely careful in meeting with and talking to applicants or objectors either before or after the meeting. This could give the impression that Members had either prejudged a particular application, or had supported a particular view without looking at, and taking into account all the facts presented by the Planning Officers.

PART C – ADMINISTRATIVE MATTERS

Member and Officer Training

- C1. Any Member who is on the Planning Committee or Planning Policy Sub-Committee must take part in regular training.**

Members who are exercising powers to grant or refuse planning applications are exercising a quasi-judicial function in an area where there is considerable Government advice and law. Members must ensure they are adequately trained to carry out the task. Accordingly any Member who is on the Planning Committee must take part in training organised by the Development Services Section either before the first meeting of the Committee or within 3 months after being nominated to serve on the Committee, whichever is the later. If they do not, or cannot, they must step down. All Members (including substitute Members) who sit on the Planning Committee must attend refresher training at least once every 3 years. Any Member of the Planning Committee who has not undergone refresher training in accordance with this Code of Practice will not be permitted to vote on any planning applications. Accurate records of Member training will be kept by Planning Officers.

- C2. Planning Officers will undertake training and provide advice to ensure that Members are sufficiently well informed on the implications of the Local Development Framework Development Plan system prior to their consideration of LDF Development Plan matters.**
- C3. Councillors will in return undertake to educate themselves on the implications of the LDF Development Plan system including carrying out appropriate research from independent sources such as the Government's 'Planning Portal' website.**
- C4. Councillors are encouraged to attend any training sessions that are organised each year. Members are also encouraged to research pertinent issues by reference to the Development Services Manager who can arrange access to publications, legislation, policy documents and practice notes.**
- C5. Members will be given regular updates to keep them informed of important changes in legislation, procedures or practices, either verbally, at meetings, or as briefing notes.**

Record Keeping

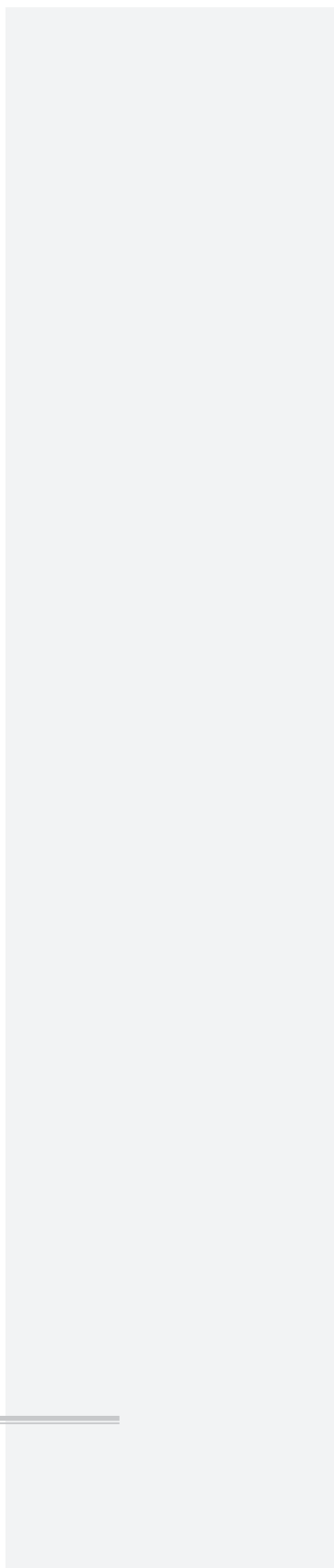
- C6. Officers will ensure that planning application files contain sufficient information itemising events so that the reason for the ultimate decision can be understood by anyone who reads the file without a detailed knowledge of the application.**

Complaints

- C7. Any complaints received in writing about the way in which a planning matter has been dealt with in terms of procedure and fairness will be investigated under the Council's Complaints Procedure.**
- C8. Where a complaint is not considered to warrant a full investigation under the Council's Complaints Procedure, Officers will in any case endeavour to explain the reasons for the Council's decision.**

The fact that someone may disagree with the decision the Council has reached is not a complaint which will necessitate investigation as such, although officers will endeavor to explain the reasons for the Council's decision in any particular case.

Where any complaint about a Council decision made contrary to the officer's recommendation is received, a copy will be forwarded to the Chair of the Committee. Complaints can also be made to the Local Government Ombudsman regarding administrative maladministration, or the Audit and Governance Committee regarding breaches of the Code of Conduct.





**Part 6 - Members' Scheme Of Allowances
2012 – 2013-2013 - 14**

Schedule 1 – Representation on Outside Bodies

Members' Allowances

Schedule 1 Alphabetical List of Outside Bodies

1. At the Annual Council meeting Members are selected to serve and support the following organisations which are known as Outside Bodies. In doing so they represent the community and the Council for the Civic Year.
2. The Council agrees to indemnify Members and Officers in respect of personal liabilities that might occur as a result of sitting as the Council's representative on Outside Bodies, providing they have taken all reasonable steps open to them to prevent such liabilities from arising. The Council is not able to provide an indemnity when the individual acts solely on behalf of an Outside Body – where an individual is a Director, Trustee or on the Management Committee of a Body, it is likely that the prime duty will be to that Body. Those Bodies likely to be so affected are marked asterisk. Any resultant liability is limited in most cases or covered by the Body.
3. All the Bodies below are approved duties for the purpose of payment of allowances provided the attendance is for the purpose of, or in connection with, the discharge of a function of the Council. Claims for allowances will be to the City Council as a general rule – however, where reimbursement can be obtained from a particular Body that should be done instead.

Organisation	Representatives 2012/13
Aspire Sports and Cultural Trust	1. Cllr. Porter 2. Cllr. Bhamia
Barton & Tredworth Community Trust	1. Cllr. Patel 2. Cllr. Hansdot
Barton and Tredworth Development Ltd	1. Cllr. Patel
Charity of John Ward	1. Cllr. Lugg 2. Mr B. Large 3. Mr. T. Haines 4. Mr S. Ayland
Citizens' Advice Bureau	1. Cllr. Hansdot 2. Cllr. Toleman
Environment and Ecology Forum	1. Cllr. Williams 2. Cllr. Bhamia 3. Cllr. Brown 4. Cllr. Lewis 5. Cllr. Field

Free Hospital Fund for Children	1. Ms A. Wedley 2. Mrs D. Fenton 3. Mr D. Newcombe 4. Mrs Balderstone
Gloucester Docks Estate Company Ltd	1. Cllr. Llewellyn
GFirst	1. Cllr. James
GL Communities	1. Cllr. Gravells 2. Cllr. Haigh 3. VACANT
Glos. Playing Fields Association	1. Cllr. Dallimore
Gloslinks	1. Cllr. Tracey 2. Cllr. Gravells 3. Cllr. C. Witts 4. Cllr. S Witts
Gloucester Charities Trust	1. Cllr. Lugg 2. Cllr. Porter 3. Cllr. Tracey 4. Mr G Heath 5. Mr G Howell 6. Mr T Haines 7. Mr R Ring
Gloucester City Homes Board	1. Cllr. Beeley 2. Cllr. Hansdot 3. Cllr. Lugg 4. Cllr. Randle 5. Cllr. Toleman
Gloucester City Homes Customer Forum	1. Cllr. Hanman 2. Cllr. P. McLellan 3. Cllr. Smith
Gloucester Heritage Urban Regeneration Company Ltd	1. Cllr. James 2. Cllr. Hilton 3. Cllr. Smith

Gloucester Historic Buildings Limited	1. Cllr. C Witts 2. Cllr Ravenhill 3. Cllr Dee 4. Ms G Gillespie
Gloucester Law Centre Management Committee	1. Cllr. Lugg 2. Cllr. Wood
Gloucester Operatic and Dramatic Society - Executive Committee	1. Cllr. Brown
Gloucester Partnership	1. Cllr. James 2. Cllr. Dallimore
Gloucester Relief in Sickness Fund	1. VACANT
Gloucester United Schools Charity	1. Cllr. Lugg
Gloucestershire Airport plc Ltd - 3 Directors (Three year term)	1. Cllr. Hilton 2. Cllr. Porter 3. Cllr. Lugg
Glos. Community and Care Overview & Scrutiny Committee	1. Cllr.Lugg
Glos. Community Safety Overview and Scrutiny Committee	1. Cllr. Dee
Joint Airport Scrutiny Working Group (JASWG)	1. Cllr. Gilson 2. Cllr. Taylor 3. Cllr. C. Witts
Llanthony Secunda Priory Trust	1. Cllr Toleman Plus Phil Staddon, Corporate Director of Regeneration
Lower Severn Drainage Board	1. Cllr. Porter
Marketing Gloucester Limited	1. Cllr. James

National Association of Black Asian and Ethnic Minority Councillors	1. Cllr. Bhaimia 2. Cllr. Hansdot 3. Cllr. Patel
National Parking Adjudication Service	1. Cllr. James
South West Council	1. Cllr. James
South Western Provincial Council	1. Cllr. James
St Ann Society of Gloucester	1. Cllr. Tracey
Urban Commission	1. Cllr. Wood 2. Cllr. Field

Part 8 – Other Useful Information

Part 8 - Other Useful Information

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Other Useful Information

Part 8 - Other Useful Information

Abbreviations and Acronyms (General)

(This list is additional information and does not form part of the Constitution)

<i>Abbreviations and Acronyms</i>	<i>Meaning</i>
ABC	Acceptable Behaviour Contract
ACAS	Advisory, Conciliation and Arbitration Service
ADZ	Alcohol Disorder Zones
ASBO	Anti Social Behaviour Order
BERR	Department of Business, Enterprise and Regulatory Reform (former DTI)
BVPI's	Best Value Performance Indicators
CAA	Comprehensive Area Assessment
CE	Chief Executive
CFO	Chief Finance Officer
CIPFA	Chartered Institute of Public Finance and Accountancy
CPA	Comprehensive Performance Assessment (being replaced by CAA)
CPS	Crown Prosecution Service
CRB	Criminal Record Bureau
CSR	Comprehensive Spending Review
DCLG	Department of Communities and Local Government
DCMS	Department of Culture, Media and Sport
DCSF	Department for Children, Schools and Families
DEFRA	Department for Environment, Food and Rural Affairs
DFT	Department for Transport
DPPO	Designated Public Protection Order
EOC	Equal Opportunities Commission
FOI	Freedom of Information
GOSW	Government Office of the South West
HMRC	HM Revenue and Customs
LAA's	Local Area Agreements
LSP's	Local Strategic Partnerships
MAA's	Multi Area Agreements
MO	Monitoring Officer
MoJ	Ministry of Justice
NDPB	Non-departmental public bodies
NI.(followed by number)	National Indicator Number
NIS	National Indicator Set
PACT	Police and Community Together
PAF	Performance Assessment Framework
PSA	Public Service Agreement
RIPA	Regulation of Investigatory Powers Act
RTPI	Royal Town Planning Institute
SNT	Safer Neighbourhood Team
SO	Standing Orders
STA	Service Transfer Agreements
TPO	Tree Preservation Order
VFM	Value for Money
Planning Related	

21 May 2012 (Revised – 17 August 2012) 20 May 2013

Part 8 – Other Useful Information

AR	Approval of Reserved Matters
CAC	Conservation Area Consent
C3C	Conservation Area Consent for a period of 3 years
CDM	Construction, Design and Management
GATCM	Grant approval for telecommunications mast
G3Y	Grant Consent for a period of 3 Years
G3L	Grant Listed Building Consent for a period of 3 Years
GFY	Grant Consent for a period of Five Years
GLB	Grant Listed Building Consent
GLBGOS	Grant Listed Building Consent subject to Government Office of South West clearance
GOP	Grant Outline Permission
GOSWG	Government Office of South West Granted
GP	Grant Permission
GSC	Grant Subject to Conditions
GTY	Grant Consent for a period of Two Years
JCS	Joint Core Strategy
LAW	Certificate of Law permitted
LDD	Local Development Document
LDF	Local Development Framework
LDS	Local Development Scheme
NOB	No objections
PPG	Planning Policy Guidance
PPS	Planning Policy Statement
OBS	Observations to County Council
OBJ	Objections to County Council
PER	Permission for demolition
RAD	Refuse advert consent
REF	Refuse
REFUSE	Refuse
REFREA	Refuse
REFLBC	Refuse Listed Building Consent
RSS	Regional Spatial Strategy
SPD	Supplementary Planning Document
SPLIT	Split decision
WDN	Withdrawn

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