



# Gloucester City Council

## General Purposes Committee

**Meeting: Tuesday, 14th January 2020 at 6.00 pm in Civic Suite, North Warehouse, The Docks, Gloucester, GL1 2EP**

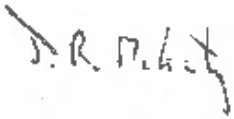
<b>Membership:</b>	Cllrs. Williams (Chair), Taylor (Vice-Chair), Coole, Field, Hanman, Hilton, Lewis, D. Norman and Stephens
<b>Contact:</b>	Democratic and Electoral Services 01452 396126 <a href="mailto:democratic.services@gloucester.gov.uk">democratic.services@gloucester.gov.uk</a>

## AGENDA

<b>1.</b>	<b>APOLOGIES</b>  To receive any apologies for absence.
<b>2.</b>	<b>DECLARATIONS OF INTEREST</b>  To receive from Members, declarations of the existence of any disclosable pecuniary, or non-pecuniary, interests and the nature of those interests in relation to any agenda item. Please see Agenda Notes.
<b>3.</b>	<b>MINUTES (Pages 5 - 8)</b>  To approve as a correct record the minutes of the meeting held on 15 October 2019.
<b>4.</b>	<b>PUBLIC QUESTION TIME (15 MINUTES)</b>  To receive any questions from members of the public provided that a question does not relate to: <ul style="list-style-type: none"><li>• Matters which are the subject of current or pending legal proceedings, or</li><li>• Matters relating to employees or former employees of the Council or comments in respect of individual Council Officers</li></ul>
<b>5.</b>	<b>PETITIONS AND DEPUTATIONS (15 MINUTES)</b>  To receive any petitions and deputations provided that no such petition or deputation is in relation to: <ul style="list-style-type: none"><li>• Matters relating to individual Council Officers, or</li><li>• Matters relating to current or pending legal proceedings</li></ul>

**6. CONSTITUTIONAL CHANGES (Pages 9 - 360)**

To receive the report of the Head of Paid Service proposing a number of changes to the Council's Constitution.



**Jon McGinty**  
**Managing Director**

**Date of Publication: Monday, 6 January 2020**

## NOTES

### Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<u>Interest</u>	<u>Prescribed description</u>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous 12 months (up to and including the date of notification of the interest) in respect of any expenses incurred by you carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between you, your spouse or civil partner or person with whom you are living as a spouse or civil partner (or a body in which you or they have a beneficial interest) and the Council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land	Any beneficial interest in land which is within the Council's area.  For this purpose "land" includes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner or person with whom you are living as a spouse or civil partner (alone or jointly with another) to occupy the land or to receive income.
Licences	Any licence (alone or jointly with others) to occupy land in the Council's area for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge) – (a) the landlord is the Council; and (b) the tenant is a body in which you, your spouse or civil partner or a person you are living with as a spouse or civil partner has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) that body (to your knowledge) has a place of business or land in the Council's area and (b) either – i. The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or ii. If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, your spouse or civil partner or person with

whom you are living as a spouse or civil partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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

NOTE: the requirements in respect of the registration and disclosure of Disclosable Pecuniary Interests and withdrawing from participating in respect of any matter where you have a Disclosable Pecuniary Interest apply to your interests and those of your spouse or civil partner or person with whom you are living as a spouse or civil partner where you are aware of their interest.

### **Access to Information**

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For enquiries about Gloucester City Council's meetings please contact Democratic Services, 01452 396126, [democratic.services@gloucester.gov.uk](mailto:democratic.services@gloucester.gov.uk).

If you, or someone you know cannot understand English and need help with this information, or if you would like a large print, Braille, or audio version of this information please call 01452 396396.

### **Recording of meetings**

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Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the Public and Press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

### **FIRE / EMERGENCY EVACUATION PROCEDURE**

If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by council staff. It is vital that you follow their instructions:

- You should proceed calmly; do not run and do not use the lifts;
- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building; gather at the assembly point in the car park and await further instructions;
- Do not re-enter the building until told by a member of staff or the fire brigade that it is safe to do so.



## GENERAL PURPOSES COMMITTEE

**MEETING** : Tuesday, 15th October 2019

**PRESENT** : Cllrs. Williams (Chair), Coole, Field, Hanman, Hilton, Lewis and Stephens

### **Others in Attendance**

Managing Director  
Policy and Governance Manager  
Democratic and Electoral Services Team Leader  
Democratic and Electoral Services Officer

**APOLOGIES** : Cllrs. Taylor and D. Norman

### **1. APPOINTMENT OF CHAIR AND VICE CHAIR**

The Committee noted the appointments made by Annual Council of Councillor Williams as Chair and Councillor Taylor as Vice-Chair of the Committee.

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

Councillor Coole declared a personal interest in Item 6, specifically in relation to the proposal to use Waterwells Primary Academy as a polling station as he was a member of the Trust Board; he took no part in the discussions.

### **3. MINUTES**

The minutes of the meeting held on 15 January 2019 were confirmed and signed by the Chair as a correct record.

### **4. PUBLIC QUESTION TIME (15 MINUTES)**

There were no public questions.

### **5. PETITIONS AND DEPUTATIONS (15 MINUTES)**

There were no petitions and deputations.

**GENERAL PURPOSES COMMITTEE**  
**15.10.19**

**6. 2019 REVIEW OF POLLING DISTRICTS AND POLLING PLACES REVIEW**

The Committee considered the report of the Returning Officer concerning the recommendations of the statutory review of polling districts and polling places.

The Policy and Governance Manager referred to the public consultation that had taken place from 9 July to 8 September 2019 as shown at Appendix 3. A total of 10 responses had been received; 2 positive and 8 responses objecting to the use of specific schools as polling stations.

She advised that options had been explored to find alternative venues, and that there had been a general move to reduce the number of polling stations by merging existing polling districts to provide a number of benefits, including a reduction in the number of staff required. She explained the mergers would not have an impact on electors as they were only proposed in polling districts that used the same polling station.

Polling district boundaries for L2, L3 and L4

The Committee were asked to review the two options for L2, L3 and L4 and consider whether it would be practical to merge L2 and L3 which would leave L4 unchanged, or consideration be given for the boundaries to be redrawn.

After careful consideration, the Committee agreed to recommend Option 1 as this would provide a clearer boundary line.

In response to a question from Councillor Lewis regarding the boundary line in QSV1, the Policy and Governance Manager confirmed that no boundaries had been redrawn in Quedgeley Severn Vale.

Polling station for BT5

The Policy and Governance Manager advised that Tredworth Junior School had objected to the school being used as a polling station for a number of years. She added that Ward Councillors had been supportive and alternative locations had been identified at Hatherley Infant School and Tredworth Infant and Primary Academy.

Members noted that Hatherley Infant School was outside the polling district. Tredworth Infant and Primary Academy was a suitable building however, this location was less visible and accessible.

The Committee agreed to recommend that the polling station for BT5 remain at Tredworth Junior School.

Polling station for QFC3

Members were advised that Waterwells Primary Academy and Waterwells Sports Centre had been identified as suitable locations within this area.

**GENERAL PURPOSES COMMITTEE**  
**15.10.19**

Members noted that Waterwells Primary Academy was on the boundary of the polling district and ward, which could potentially cause confusion for electors in the Kingsway ward. Waterwells Sports Centre was accessible by foot, but due to a number of no through roads, access by car was less direct.

The Committee agreed to recommend that the polling station be moved for Waterwells Sports Centre.

Westgate Ward

The Policy and Governance Manager explained that the boundary between W1 and W2 at the very north-east currently runs through the land occupied by Sainsburys and the Peel Centre. It was proposed that the boundary be moved to run alongside St Ann's Way to provide clarity for the housing being built in that area.

Councillor Hilton proposed a further amendment to the boundaries in Westgate Ward. He proposed that the boundary between W2 and W4 be amended to move the boundary from Brunswick Road to Southgate Street bringing properties from W2 into W4 to enable them to vote at a more convenient polling station.

The Committee agreed to recommend the proposal to Council, subject to the impact of the changes being reviewed by the Policy and Governance Manager.

The Policy and Governance Manager advised that once changes had been made, it was the intention to implement the changes with the revised the register was published on 1 December 2019; however, in the event of an unscheduled election being called before the end of the year, the changes would be implemented in January.

General Purposes Committee **RESOLVED TO RECOMMEND** to Council that:

- (1) Option 1 be approved for the polling district boundaries for L2, L3 and L4.
- (2) Polling station for BT5 to remain at Tredworth Junior School.
- (3) Polling station for QFC3 be moved to Waterwells Sports Centre.
- (4) Subject to the impact on polling station ratios being manageable, the boundary between W2 and W4 be amended to run along Southgate Street instead of Brunswick Road.
- (5) The proposals for the 2019 Review of Polling Districts and Polling Places Review be approved.

**Time of commencement: 6.00 pm hours**  
**Time of conclusion: 6.30 pm hours**

**Chair**

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<b>Meeting:</b>	<b>General Purposes Committee Council</b>	<b>Date:</b>	<b>14 January 2020 30 January 2020</b>
<b>Subject:</b>	<b>Constitutional Changes</b>		
<b>Report Of:</b>	<b>Head of Paid Service</b>		
<b>Wards Affected:</b>	<b>All</b>		
<b>Key Decision:</b>	<b>No</b>	<b>Budget/Policy Framework:</b>	<b>No</b>
<b>Contact Officer:</b>	<b>Jon McGinty, Managing Director</b>		
	<b>Email: jon.mcginty@gloucester.gov.uk</b>	<b>Tel:</b>	<b>396200</b>
<b>Appendices:</b>	<ol style="list-style-type: none"> <li><b>1. Draft Revised Council's Constitution</b></li> <li><b>2. Revised Councillor Code of Conduct</b></li> <li><b>3. Revised Employee Code of Conduct</b></li> <li><b>4. Revised Protocol on Councillor/Employee relations</b></li> <li><b>5. Revised Council Budget Flowchart</b></li> </ol>		

**FOR GENERAL RELEASE**

**1.0 Purpose of Report**

- 1.1 To propose a number of changes to the Council's Constitution to address issues or reflect reviews in relation to contract rules, the Councillor Code of Conduct, Employee Code of Conduct and Councillor/Officer protocol, petitions and procedures for dealing with the budget debate at Council.

**2.0 Recommendations**

- 2.1 General Purposes Committee is asked to consider the information contained in the report and make **RECOMMENDATIONS** to Council on the proposed changes to the Constitution.
- 2.2 Council is asked to **RESOLVE** to consider the recommendations of the General Purposes Committee and adopt the proposed changes to the Constitution.

**3.0 Background and Key Issues**

- 3.1 Attached at Appendix 1 is a copy of the Council's Constitution. The Constitution was last reviewed and amended in May 2016.
- 3.2 This report seeks to propose a number of changes to the Constitution, some of the changes are minor drafting improvements or corrections and clarifications. These changes are shown as tracked changes in the Constitution attached at Appendix 1 except where the changes are so substantial that a wholly revised document is being proposed. Where this is the case Appendix 1 sets out the current constitutional arrangement and the following appendices reflect the proposed changes:

- 3.2.1 Appendix 2 – Revised Councillor Code of Conduct
- 3.2.2 Appendix 3 – Revised Employee Code of Conduct
- 3.2.3 Appendix 4 – Revised Protocol on Councillor/Employee relations
- 3.2.4 Appendix 5 – Revised Flow Chart for Budget Debates

- 3.3 Article 13 and the Contract Rules are proposed to be amended to increase the relevant thresholds and to permit the use of electronic signatures.
- 3.4 A simplified and shortened Councillor Code of Conduct is proposed at Appendix 2. The Code requires a Councillor with an interest to leave the meeting when matters affecting that interest are under discussion.
- 3.5 A revised employee code of conduct is proposed at Appendix 3 and addresses recommendations made following an Internal Audit Report.
- 3.6 As a consequence of the two revisions above an opportunity has been taken to revisit and revise the Protocol on Councillor/Employee Relations and this is reflected in proposals set out in Appendix 4.
- 3.7 After discussions with Group leaders a revised Council Budget Flowchart is proposed at Appendix 5.
- 3.8 A codified procedure for dealing with petitions is proposed to be added.

#### **4.0 Social Value Considerations**

- 4.1 Not applicable

#### **5.0 Environmental Implications**

- 5.1 Not applicable

#### **6.0 Alternative Options Considered**

- 6.1 Not applicable

#### **7.0 Reasons for Recommendations**

- 7.1 To keep the Constitution under periodic review

#### **8.0 Future Work and Conclusions**

- 8.1 Further reviews and proposed revisions will be made in the future to reflect the fact that the Constitution is an evolving document.

#### **9.0 Financial Implications**

- 9.1 None arising from the content of this report

(Financial Services have been consulted in the preparation this report.)

**10.0 Legal Implications**

10.1 None arising from the content of this report

(One Legal have been consulted in the preparation this report.)

**11.0 Risk & Opportunity Management Implications**

11.1 Not applicable

**12.0 People Impact Assessment (PIA) and Safeguarding:**

12.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

**13.0 Community Safety Implications**

13.1 Not applicable

**14.0 Staffing & Trade Union Implications**

14.1 Not applicable

**Background Documents:** None

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# CONSTITUTION

**Approved by Council on 23 May 2016  
to take effect on 23 May 2016**

## Contents

**Note:** To use this index electronically and to move throughout the document seamlessly, please click the heading you wish to view in the index and the page will appear. However, in some programs this may not necessarily work.

	<b>Page</b>
<b>Foreword</b>	3
.....	
<b>Part 1 - Summary and Explanation</b>	<b>1</b>
.....	
<b>Part 2 - Articles of the Constitution</b>	<b>1</b>
Article 1 - The Constitution	2
.....	
Article 2 - Members of the Council	3
.....	
Article 3 - Citizens and the Council	5
.....	
Article 4 - The Full Council	6
.....	
Article 5 - Chairing the Council	7
.....	
Article 6 - Overview and Scrutiny Committee	8
.....	
Article 7 - The Leader and Cabinet	9
.....	
Article 8 - Regulatory and other Committees	11
.....	
Article 9 - Area Committees and Forums	13
.....	
Article 10 - Joint Arrangements	14
.....	
Article 11 - Officers	16
.....	
Article 12 - Decision Making	19
.....	
Article 13 - Finance, Contracts and Legal Matters	21
.....	
Article 14 - Review and Revision of the Constitution	22
.....	
Article 15 - Suspension, Interpretation and Publication of the Constitution	23
.....	
<b>Part 3 - Responsibility for Functions</b>	<b>1</b>
PART 3A - Introduction	2
.....	
PART 3B - Council Functions	3
.....	
PART 3C - Committee Functions	5
.....	
PART 3D - Officer Non-Executive Functions	13
.....	

23 May 2016

PART 3E - Executive Functions	18
.....	
<b>Part 4 - Rules of Procedure</b>	<b>1</b>
Council Procedure Rules	2
.....	
Budget and Policy Framework Procedure Rules	18
.....	
Financial Regulations	21
.....	
Contract Rules	63
.....	
Cabinet Procedure Rules	102
.....	
Overview and Scrutiny Procedure Rules	107
.....	
Access to Information Procedure Rules	114
.....	
Arrangements for dealing with standards allegations under the Localism Act 2011	122
.....	
Officer Employment Procedure Rules	130
.....	
<b>Part 5 - Codes and Protocols</b>	<b>1</b>
Code of Governance	2
.....	
<del>Members' Code of Conduct</del> <u>Councillor Code of Conduct</u>	14
.....	
Declaring Interests Flowchart	26
.....	
<del>Employee Officers'</del> <u>Code of Conduct</u>	27
.....	
Protocol on <del>Councillor/Employee Relations</del> <u>Member / Officer Relations</u>	33
.....	
Monitoring Officer's Protocol	39
.....	
Protocol for the Independent Person	42
.....	
Planning and Development - Code of Practice	45
.....	
Probity In Licensing and Enforcement - Code of Practice	63
.....	
Protocol on Recording at Meetings	77
.....	
Members' Working Groups Protocol	79
.....	
<u>Petitions Scheme</u>	<b>81</b>
.....	
<b>Part 6 - Members' Allowances Scheme</b>	<b>1</b>
Members' Scheme of Allowances	2
.....	
Schedule 1. Representation on Outside Bodies	14
.....	
<b>Part 7 - Proper Officers and Scheme of Sub Delegation</b>	<b>1</b>

Proper Officers	2
.....	
Scheme of Sub Delegation	8
.....	
Management Structure	15
.....	
<b>Appendices</b>	<b>1</b>
Diagram of Committees	2
.....	
Size of Committees	3
.....	
Joint Committees and Working Groups	4
.....	
Glossary of Terms	14
.....	
Abbreviations and Acronyms	20
.....	
City of Gloucester Ward Boundaries	22
.....	



## FOREWORD

Modern local government requires modern and effective governance. Given Gloucester City Council's ambition to be a leaner, more focused Council it is essential that we have a constitution, governance arrangements, and methods of working, that facilitate this.

This constitution is the product of consultation with members and officers of the Council and is written to help support the Council achieving its Corporate Priorities, ~~namely:~~

- ~~• Growing Gloucester's Economy~~
- ~~• Working with our Communities~~
- ~~• Creating Pride in our City and improving our environment~~
- ~~• Sound finances and strong performance~~
- ~~• Working to create a vibrant and prosperous city~~
- ~~• Working to maintain a safe and attractive city~~
- ~~• Working to build strong and resilient communities~~
- ~~• Working to provide great services that ensure value for money~~

I believe this constitution offers the appropriate combination of certainty, clarity and flexibility, achieving the balance that enables swift and effective decision making, yet ensuring proper checks and balances.

However, this is not the end of the process. Local government will continue to change and this will apply to Gloucester as much as elsewhere. Annual review of the constitution is unlikely to be sufficient, and accordingly regular reports will be brought to improve and update the Council's controlling document, as appropriate.

**Jon McGinty**  
**Managing Director and Head of**  
**Paid Service**

## Part 3 - Responsibility for Functions

### 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 39 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 trains and advises 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 five Councillors. When major decisions are to be discussed or made, these are published in the Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed with

## Part 1 - Summary and Explanation

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 Committee supports the work of the ~~Leader and Cabinet~~ the Executive and the Council as a whole. It allows citizens to have a greater say in Council matters by ~~holding public inquiries into~~ exploring matters of local concern. These lead to reports and recommendations which advise the ~~Leader and Cabinet~~ Executive 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~~ Executive. It can 'call-in' a decision which has been made by the ~~Leader or Cabinet~~ Executive but not yet implemented. This enables it to consider whether the decision is appropriate. It may recommend that the ~~Leader or Cabinet~~ Executive reconsiders the decision although ~~Leader or Cabinet~~ the Executive does not have to change the policy. It may also be consulted by the ~~Leader, Cabinet~~ Executive 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](http://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 Forward Plan 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;
- 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;

## Part 1 - Summary and Explanation

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- 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 Policy and Governance Manager, whose contact details can be found in Part 8 of this Constitution.

## Part 2 - Articles of the Constitution

		<b>Page</b>
Article 1	- The Constitution	2
Article 2	- Members of the Council	3
Article 3	- Citizens and the Council	5
Article 4	- The Full Council	6
Article 5	- Chairing the Council	7
Article 6	- Overview and Scrutiny Committees	8
Article 7	- The Leader and Cabinet	9
Article 8	- Regulatory and other Committees	11
Article 9	- Area Committees and Forums	13
Article 10	- Joint Arrangements	14
Article 11	- Officers	16
Article 12	- Decision Making	19
Article 13	- Finance, Contracts and Legal Matters	21
Article 14	- Review and Revision of the Constitution	22
Article 15	- Suspension, Interpretation and Publication of the Constitution	23

## Part 2 - Articles of the Constitution

### Article 1 – The Constitution

#### 1.01 Powers of the Council

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

#### 1.02 The Constitution

This Constitution is the Constitution of Gloucester City Council.

The purpose of the Constitution is to:

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

#### 1.03 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council shall always choose that option which it thinks is closest to the purposes stated above.

The Council shall monitor and evaluate the operation of the Constitution as set out in Article 15 (Review and Revision of the Constitution).

## Part 2 - Articles of the Constitution

### Article 2 – Members of The Council

#### 2.01 Composition and Eligibility

(a) **Composition**

The Council shall comprise 39 Members otherwise called Councillors. One, two or three Councillors shall be elected by the voters of each ward in accordance with the scheme drawn up by the Local Government [Boundary Commission for England](#) and approved by ~~the Secretary of State for Communities and Local Government~~ [Parliament](#).

(b) **Eligibility**

Only registered voters of the district or those living or working there will be eligible to hold the office of Councillor.

#### 2.02 Election and Terms of Office

The ordinary election of all Councillors shall be held on the first Thursday in May every fourth year from 2016. The terms of office of Councillors shall normally be four years starting on the fourth day after being elected and finishing on the third day after the date of the regular election four years later.

The Secretary of State may, in a year when a European Parliamentary ~~General~~ Election or General Election is held, make an Order to change the ordinary day of election of Councillors so as to be the same date as the Poll in that European or General Election.

#### 2.03 Roles and Functions of All Councillors

(a) **Key Roles**

All Councillors shall:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate functions;
- (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) participate in the governance and management of the Council;
- (vi) be available to represent the Council on other bodies; and
- (vii) maintain the highest standards of conduct and ethics.

(b) **Rights and Duties**

- (i) Councillors shall have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors shall not make public information which is confidential or exempt without the consent of the Council or divulge information given to them in confidence to anyone other than a Councillor or officer entitled to know it.

For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

## Part 2 - Articles of the Constitution

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### **2.04 Conduct**

Councillors shall at all times observe the Members' Code of Conduct, the Planning and Development Code of Practice, the Probity in Licensing and Enforcement Code of Practice, and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

### **2.05 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Scheme of Allowances set out in Part 6 of this Constitution.



## Part 2 - Articles of the Constitution

### Article 3 – Citizens and The Council

#### 3.01 Citizens' Rights

Citizens have the following rights. The rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Referendum Voting and Petitions**  
Citizens on the electoral roll for the area have the rights to vote and sign a petition to request a referendum for an elected Mayor, providing that such a referendum cannot be held less than ten years from any previous such referendum.
- (b) **Information**  
Citizens have the right to:
- (i) Attend, record and report on meetings of the Council, Council committees and Cabinet except where personal, confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) attend meetings of the Cabinet when ~~key~~ decisions are being discussed or decided;
  - (iii) find out from the Forward Plan what key decisions will be taken by the Leader, Cabinet or Individual Cabinet Members and when;
  - (iv) see reports and background papers, and any records of decisions made by the Council, the Leader, Cabinet or individual Cabinet Members;
  - (v) inspect the Council's accounts and make their views known to the external auditor;
  - (vi) contact their any Councillor or Cabinet Member about any matter of concern to them; and
  - (vii) obtain a copy of the Constitution (also available on the Council's website [www.gloucester.gov.uk](http://www.gloucester.gov.uk)).
- (c) **Participation**  
Citizens have the right to:
- (i) participate in the Council's question time;
  - (ii) take part in deputations and present petitions/calls for action to the Council;
  - (iii) contribute to investigations by the Overview and Scrutiny Committee.
- (d) **Complaints**  
Citizens have the right to complain to:
- (i) the Council itself under its complaints scheme;
  - (ii) the Ombudsman after using the Council's own complaints scheme, if they think that the Council has not followed its procedures properly;
  - (iii) the Monitoring Officer about a breach of the Councillors' Code of Conduct if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct (Part 5 of this Constitution).

#### **Petitions**

Any person who lives, works or studies in the district may petition the Council or the Cabinet about any matter which causes concern to them and affects the Borough.

Whenever the Council receives a petition, the Mayor shall determine to whom the petition is to be passed. Whenever the Cabinet receives a petition, the

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## Part 2 - Articles of the Constitution

Leader shall determine to whom the petition is to be passed. That person or body shall ensure that a detailed response is sent to the organiser or presenter of the petition.

(†)

Details of the petition scheme are set out in Appendix [ 1 ].

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### 3.02 Citizens' Responsibilities

Citizens must not be violent, abusing or threatening to Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers.

## 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:-

Statutory:

~~• Sustainable Community Strategy~~

- Crime and Disorder Reduction Strategy
- Plans and strategies which together comprise the Local Development Framework
- Licensing Policy Statements (Licensing Act 2003 and Gambling Act 2005)
- Treasury Management Strategy

Non- Statutory:

- Council Plan
- Housing Strategy(ies)
- Climate Change Policy
- Cultural Strategy
- ~~• Joint Waste Strategy~~
- Property Investment Strategy

The Council can adopt additional plans and strategies to form part of the Policy Framework.

(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.

#### 4.02 Council Meetings

There are three types of Council meetings

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings (special);

and they shall be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

#### 4.03 Responsibility for Functions

The Council shall maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Leader or Cabinet.

## Part 2 - Articles of the Constitution

### Article 5 – Chairing the Council

#### 5.01 Role and function of the Mayor (Chair of the Council)

The Mayor and in his/her absence, the Deputy Mayor (who also bears the honorary and historic title of Sheriff) will have the following roles and functions:

##### (a) Ceremonial Role

- **First citizen.** The Mayor shall take precedence i.e. shall be the first citizen of the City of Gloucester.
- **Promotion of the city.** Together with the Leader, the Mayor will promote the City as a whole and act as a focal point for the community.
- **Ceremonial Matters.** The Mayor will decide what civic and ceremonial duties he/she and the Sheriff and Deputy Mayor will carry out.

##### (b) Chairing the Council Meeting

The Mayor shall be elected by the Council annually. The Mayor shall have the following responsibilities:

- (i) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (ii) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not in the Cabinet are able to hold the Cabinet to account;
- (iv) to promote public involvement in the Council's activities;
- (v) to be the conscience of the Council.

## Part 2 - Articles of the Constitution

### Article 6 – Overview and Scrutiny Committee

- 6.01 The overview and scrutiny function is a central element to this Constitution. The Overview and Scrutiny Committee meets in public to discuss and make recommendations on the development of policies and hold the Executive to account for its actions. It also has a key role in considering other matters of local concern.
- 6.02 The guiding principle for the work of scrutiny is that it should be consensual and positive. The emphasis of the work should be on making a proactive and positive contribution to the development of policy and the discharge of the Council's functions under Section 21 of the Local Government Act 2000 (as amended). This is best achieved by an inclusive process covering Members, the Council's partners, service users and officers.
- 6.03 The Council will appoint an Overview and Scrutiny Committee as set out below to discharge the functions conferred by Section 21 of the Local Government Act 2000 (as amended).
- 6.04 The functions of the Overview and Scrutiny Committee are detailed in Part 3C of the Constitution. The procedure rules concerning overview and scrutiny are detailed in Part 4 of the Constitution.
- 6.05 The Overview and Scrutiny Committee will have an overarching scrutiny role and will also co-ordinate, plan and approve the programme of scrutiny work. It will have the right to create such task and finish groups, scrutiny panels or working parties as it thinks fit to carry out the overview and scrutiny programme and delegate such functions as it thinks appropriate. Each task and finish group or working party will scrutinise the work of the Council and the Executive on a service based and/or cross cutting basis.
- 6.06 Additionally, the Overview and Scrutiny Committee will regularly review the Forward Plan of decisions and indicate whether the proposed level of consultation is appropriate for the decision to be taken.
- 6.07 Where decisions of the Leader, Cabinet, individual Cabinet Members or officers are key decisions, they will be published and circulated as set out in Rule 14 of the Overview and Scrutiny Procedure Rules (Call-in).

### Policy Development and Review

- 6.08 The Overview and Scrutiny Committee may consider and implement mechanisms to encourage and enhance community participation in the development of policy options.

### Proceedings of Overview and Scrutiny Committee

- 6.09 The Overview and Scrutiny Committee will conduct its proceedings in accordance with Section 21 of the Local Government Act 2000 (as amended) and the overview and scrutiny procedure rules set out in Part 4 of this Constitution.

## 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

The Leader of the Council will hold office until:

- (a) he/she resigns from the office; or
- (b) he/she is no longer a Councillor; or
- (c) 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 (c) 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.

#### 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 until:

- (a) he/she resigns from office; or
- (b) he/she is no longer a Councillor; or
- (c) he/she is removed from office by the Leader of the Council.

Cabinet Members shall hold office until:

- (a) they resign from office; or
- (b) they are no longer Councillors; or
- (c) 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.

## Part 2 - Articles of the 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

#### Leader of the Council

- (a) In the event that, after an election, 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 an election 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).

#### Mayor

- (a) In the event that, after an election, the Mayor is no longer a Councillor, the he/she shall remain in office until the first Annual General Meeting following that election.

## Part 2 - Articles of the Constitution

### Article 8 – Regulatory and Other Committees

#### 8.01 Regulatory and Other Committees

The Council shall appoint the quasi judicial Committees set out below to discharge the functions described in Part 3 of this Constitution.

**1. Planning Committee**

The Planning Committee is responsible for 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 Responsibilities) (England) Regulations 2000.

The Planning Committee comprising 13 Members of the Council whose membership is to be allocated in proportion to the political composition of the Council.

**2. Licensing and Enforcement Committee**

The Licensing Committee is responsible for Licensing and Registration functions as set out in Part B (Functions relating to Licensing and Registration) of Schedule 1 to The Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

A Licensing and Enforcement Committee comprising 13 Members of the Council whose membership is to be allocated in proportion to the political composition of the Council.

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

**3. Audit and Governance Committee**

An Audit and Governance Committee comprising 7 Members of the Council whose membership is to be allocated in proportion to the political composition of the Council. The Committee is responsible for matters relating to probity, ethics and alleged breaches of the Code of Conduct.

**4. General Purposes Committee**

A General Purposes Committee comprising 7 Members of the Council whose membership is to be allocated in proportion to the political composition of the Council. The Committee is responsible for matters relating to the Constitution, elections, Quedgeley ~~Parish~~-Town Council, Members' Allowances and employment matters.

**5. Senior Appointments Committee**

A Senior Appointments Committee comprising 5 Member of the Council whose membership is to be allocated in proportion to the political composition of the Council. The Committee is responsible for senior appointments and recommending the appointments of statutory officers.

**6. Appeals Committee**

An Appeals Committee comprising 5 Member of the Council whose membership is to be allocated in proportion to the political composition of the Council. The Committee is responsible for determining appeals against decisions of the Senior Appointments Committee.



## Part 2 - Articles of the Constitution

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**Note**

**Delegation to Officers** - Those functions relating to statutory financial, audit and legal functions which have been delegated to officers are set out in the Council's Scheme of Delegation in Part 3 to this Constitution.

## Part 2 - Articles of the Constitution

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### Article 9 - Area Committees and Forums

- 9.01** The Council recognises that it has the power to appoint Area Committees and Forums, but at the present time chooses not to establish such bodies. In deciding whether to do so in the future, the Council will consider the effectiveness of such bodies in the context of best value and the provision of more efficient service delivery, and more transparent and accountable decision-making.
- 9.02** In establishing Area Committees or Forums, the Council would ensure that the Terms of Reference of the Committees' functions and the geographical areas were clear and concise. The meetings and the conduct of the Members of the Area Committees would be governed by this Constitution, especially with regard to conflict of interest.

## Part 2 - Articles of the Constitution

### Article 10 – Joint Arrangements

#### 10.01 Arrangements to Promote Well-Being

The Council or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:

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

#### 10.02 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not executive functions in any of the participating authorities, or to advise the Council. [Such arrangements may involve the appointment of a joint committee with these other local authorities.]
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet Members to a joint committee and those Members need not reflect the political composition of the Local Authority as a whole.
- (d) The Cabinet may appoint Members to a joint committee from outside the Cabinet when the joint committee has functions for only part of the area of the authority and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a Member for a ward which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including any delegations to joint committees can be found in the Council's scheme of delegations in Part 3 of this Constitution.

#### 10.03 Access to Information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all Members of a joint committee are Members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
- (c) If the joint committee contains Members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### 10.04 Delegation to and from Other Local Authorities

- (a) The Council may delegate non-executive functions to another Local Authority, or, in certain circumstances, the Executive of another Local Authority.
- (b) The Leader may delegate Executive functions to another Local Authority or the Executive of another Local Authority in certain circumstances.
- (c) The decision whether or not to accept such delegation from another Local Authority shall be reserved to the Council.

## Part 2 - Articles of the Constitution

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### **10.05 Contracting Out**

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

## 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:
- Managing Director
  - Corporate Directors
- (c) **Head of Paid Service, Monitoring Officer and Section 151 Officer.** The Council will designate the following posts as shown:

Post	Functions and areas of responsibility
Managing Director	Head of Paid Service
Head of Policy & Resources	S151 Officer
Corporate Director (Service Transformation)	Monitoring Officer

- (d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

#### 11.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of S151 Officer if a qualified accountant.
- (c) **Advising whether Executive decisions are within the Budget and Policy Framework.** The Head of Paid Service will advise whether decisions of the Leader and Cabinet are in accordance with the Budget and Policy Framework.
- (d) **Providing advice.** The Head of Paid Service, in consultation with the Council Solicitor and S151 Officer, will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework issues to all Councillors.

#### 11.03 Functions of the Monitoring Officer

- (a) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Head of Paid Service and S151 Officer, the Monitoring Officer will prepare a report to the full Council or to the Leader or Cabinet in relation to an Executive function, if he or

## Part 2 - Articles of the Constitution

she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission is likely to result in a finding by the Local Government Ombudsman of maladministration. Such a report must be considered by the Authority within 21 days after its preparation and distribution and will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- (b) **Supporting the Audit and Governance Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Governance Committee.
- (c) **Receiving complaints.** The Monitoring Officer will receive and act on complaints that the Council's Code of Conduct has been breached, in accordance with the Council's standards arrangements.
- (d) **Conducting investigations.** The Monitoring Officer may conduct investigations in accordance with the Council's standards arrangements, including investigations into matters referred by the Audit and Governance Committee and may make recommendations in respect of such investigations to the Audit and Governance Committee.
- (e) **Deputy Monitoring Officer.** The Monitoring Officer shall designate ~~a-one or more~~ Deputies to assist in the work of the Monitoring Officer who shall have the same rights and duties of the Monitoring Officer in his/her absence, or when the matter is delegated to them by the Monitoring Officer.
- (f) **Restrictions on posts.** The Monitoring Officer cannot be the Head of Paid Service or the S151 Officer.

### 11.04 Functions of the S151 Officer

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Head of Paid Service and the Monitoring Officer, the S151 Officer will report to the full Council, or to the Leader or Cabinet in relation to any Leader or Cabinet function, and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The S151 Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The S151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The S151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- (e) **Give financial information.** The S151 Officer will provide financial information to the media, members of the public and the community.

### 11.05 Duty to Provide Sufficient Resources to the Monitoring Officer and S151 Officer

The Council will provide the Monitoring Officer and S151 Officer with such officers, accommodation and other resources as are in the opinion of those Officers sufficient to allow their duties to be performed.

## Part 2 - Articles of the Constitution

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### **11.06 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

### **11.07 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

## 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 (Executive functions only).**

The following are 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 budget expenditure or budget savings in excess of £100,000.

(iv) A decision in relation to any contract valued in excess of £500,000 or relates to the acquisition or disposal of land or an interest in land with a value in excess of £250,000

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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 Forward Plan)

(c) **Significant Decisions (non-Executive Functions only)**

A Significant Decision means any decision in exercise of a non-Executive Function which:-

- (i) requires a budget expenditure or budget saving in excess of £100,000 ; or
- (ii) is likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the City

(d) **Urgent Decisions**

An urgent decision means a decision made in circumstances where:-



## Part 2 - Articles of the Constitution

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(a) a decision is required by statute or otherwise within a specified timescale; or

(b) any delay likely to be caused by not making the decision would seriously prejudice the Council's or the public's interests; or

(c) any delay likely to be caused by not making the decision would be likely to expose the Council, its members or its residents to a significant level of risk, loss, damage or disadvantage.

### **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 Procedure Rules set out in Part 4 of this Constitution when considering any matter.

### **12.07 Decision Making by Other Committees and Sub-Committees established by the Council**

Subject to Article 12.08, other Council committees and sub-committees will follow the parts of the Council Procedures Rules set out in part 4 of this Constitution that apply to them.

### **12.08 Decision Making by Council Bodies Acting as Tribunals**

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

## Part 2 - Articles of the Constitution

### Article 13 – Finance, Contracts and Legal Matters

#### 13.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4 of this Constitution.

#### 13.02 Contracts

Every contract (excluding contracts relating to land transactions) made by the Council will comply with the Contract Rules set out in Part 4 of this Constitution.

Contracts (excluding contracts relating to land transactions) shall be executed as follows:

- All Contracts with a value exceeding £50,000 shall be executed as a deed and the common seal (see below) shall be affixed unless the Council Solicitor considers it more expedient to sign the contract.
- All Contracts with a value exceeding £25,000 but not exceeding £50,000 shall be signed by the Council Solicitor or some other person authorised by the Council Solicitor unless the Council Solicitor requires that the contract be sealed.
- All Contracts not exceeding £25,000 that require execution shall be signed by any of the Managing Director, Corporate Directors, Council Solicitor or any other officer with delegated authority to do so unless the Council Solicitor requires that the contract be sealed.

#### 13.03 Legal Proceedings

The Council Solicitor is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Council Solicitor considers that such action is necessary to protect the Council's interests.

#### 13.04 Authentication of Documents

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

~~Any contract with a value exceeding £50,000 entered into on behalf of the Local Authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the Council attested by at least one officer as detailed below.~~

#### 13.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of Tewkesbury Borough Council (One Legal). A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of Tewkesbury Borough Council (One Legal) should be sealed. The affixing of the Common Seal will be attested by any of

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## Part 2 - Articles of the Constitution

the Mayor, the Managing Director, a Corporate Director, the S151 Officer or the Council Solicitor or some other person authorised by the Council Solicitor.

### 13.06 Electronic Signatures

Electronic signatures may only be permitted as a method of executing contracts with the prior consent of the Section 151 officer having first obtained advice from the Council Solicitor.

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## Part 2 - Articles of the Constitution

### Article 14 – Review and Revision of the Constitution

#### 14.01 Duty to Monitor and Review the Constitution

The Head of Paid Service 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 Head of Paid Service after consultation with the General Purposes Committee.
- (b) The Head of Paid Service has delegated authority, to make minor and consequential amendments to the Constitution to reflect changes of fact including changes in allocation of Functions.

## Part 2 - Articles of the Constitution

### Article 15 – Suspension, Interpretation and Publication of the Constitution

#### 15.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** Details of the rules which may be suspended in accordance with Article 15.01 are set out in Part 4 (paragraph 25.01 - Council Procedure Rules).

#### 15.02 Interpretation

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

#### 15.03 Publication

The Policy and Governance Manager will:-

- (a) ~~Give a printed copy of this Constitution to advise~~ each Member of the Authority where they may locate the Constitution upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) Ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) Arrange for an electronic copy of the Constitution to appear on the Council's internet and intranet websites.
- (d) Ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

## Part 3 - Responsibility for Functions

### Part 3 – Responsibility for Functions

<b>Contents</b>	<b>Page</b>
PART 3A: Introduction .....	2
PART 3B: Council Functions .....	3
PART 3C: Committee Functions .....	5
PART 3D: Officer Non-Executive Functions .....	13
PART 3E: Executive Functions .....	18
<b>Tables</b>	<b>Page</b>
Functions of Council	3
Functions of Committees	5
Non-Executive Functions of Officers	13
Executive Functions	20
Additional Executive Functions of Officers	28

## Part 3 - Responsibility for Functions

### Part 3A: Introduction

- 3A.1 The Council consists of a number of distinct elements which are each allocated certain functions. The most important elements are Council (all councillors), Committees (undertaking specific functions delegated by Council/specified in statute) and the Executive (Leader and Cabinet). These are the primary decision making bodies within the Council and they exercise different powers and functions. To assist the efficient working of the Council these bodies have delegated some of their functions to other parts of the Council including Sub-Committees and Officers.
- 3A.2 This Part 3 of the Constitution describes the way in which the Council's powers and functions are distributed amongst the various parts of the Council and who may lawfully exercise those powers within any limits or in accordance with any conditions.
- 3A.3 The law provides a framework under which functions:
- (a) must not be the responsibility of the Executive
  - (b) may or may not be the responsibility of the Executive
  - (c) must be the responsibility of the Executive
  - (d) must be exercised by Full Council
- 3A.4 Functions which are the responsibility of the Executive (called "Executive Functions") may be delegated by the Leader of the Council to a Committee of the Executive, an individual Member of the Executive (Cabinet Member) or an Officer (exercising Executive Functions). Executive Functions may also be delegated to another local authority or exercised jointly through a joint committee or officer of another authority. The delegation of Executive Functions is set out in Part 3E 'Executive Functions' below.
- 3A.5 Functions which are not the responsibility of the Executive (called 'non-Executive Functions') are the responsibility of Council, Committees (and Sub-Committees) or Officers (exercising non-Executive Functions) Delegation of non-Executive Functions is set out in Part 3B 'Council Functions', Part 3C 'Committee Functions' and Part 3D 'Officer Non-Executive Functions' below.
- 3A.6 Any reference in this Part 3 of the Constitution to any Function, and any delegation of power includes all action associated with that Function or power and all related enforcement actions.
- 3A.7 A Key Decision shall only be taken by Cabinet, unless such a decision has been specifically delegated by the Leader to a Cabinet Member or an Officer or unless the Leader, Managing Director (or, in his/her absence or where he/she is unable to act, a Corporate Director) is making an urgent decision (as set out in Part 3E below).
- 3A.8 A Significant Decision shall only be taken by Council or a Committee unless such a decision has been specifically delegated to a Sub-Committee or Officer or unless the Managing Director (or, in his/her absence or where he/she is unable to act, an Corporate Director) is making an urgent decision (as set out in Part 3D below).

## Part 3 - Responsibility for Functions

### PART 3B: Council Functions

3B.1 The functions that may only be exercised by Council are set out in Table 1 below:

Table 1-Functions of Council	
1	Determine which plans, strategies and policies shall comprise the Council's Policy Framework (Part 2 Article 4) and from time to time approve, adopt and amend those plans, strategies and policies.
2	Determine and amend the Council's Budget.
3	Approve a departure from the approved Policy Framework and/or the approved Budget.
4	Appoint and remove the Leader.
5	Change the executive arrangements of the Council.
6	Establish, abolish and decide the terms of reference and the composition of Council Committees and make appointments including co-opted members to them and other non-Executive bodies.
7	Make and amend Procedural Rules, Financial Rules and Contract Rules.
8	Change the name of the City or a parish.
9	Elect a Mayor (Council Chairman) and Deputy Mayor (Council Vice-Chairman).
10	Confer the title of Honorary Alderman and grant the Freedom of the City.
11	Promote or oppose local or personal bills.
12	Where it is the function of the Council, divide Parliamentary Constituencies and local government electoral divisions into polling districts.
13	Appoint an Electoral Registration Officer and Returning Officer for local government elections.
14	Make, amend, revoke or re-enact Byelaws.
15	Fill Council or Parish Council vacancies in the event of insufficient nominations.
16	Change ordinary year of election of parish councillors.
17	Submit proposals to the Secretary of State for an Order for pilot schemes for local elections.
18	Confirm the appointment of the Head of Paid Service and designate officers as the Monitoring Officer and the S151 Officer.
19	Make a scheme for the payment of allowances to Members and determine the amount of all allowances payable to Members of the Council.
20	Approve the Pay Policy Statement.
21	Establish and abolish Joint Committees (in respect of non-Executive functions).
22	<u>In addition to annual approval of appointments to outside bodies, to Appoint or nominate individuals to outside bodies in respect of non-Executive Functions and revoke or withdraw such appointment or nomination where there is no Group Leader consensus on the decision to be taken.</u>
23	<u>In addition to annual approval of appointments to outside bodies, Appoint appoint or nominate individuals to outside bodies in respect of Executive Functions and revoke or withdraw such appointment or nomination where there is no Group Leader consensus on the decision to be taken.</u>
24	Adopt or amend the Code of Members' Conduct.
25	Take decisions and/or give advice on matters brought to Council by the Leader, Cabinet, Officers and other bodies or persons.
26	Receive and consider statutory reports from the Head of Paid Service and the Monitoring Officer.
27	Authorise virements from the Council's approved Annual Revenue and Capital Budgets in excess of £100,000.



## Part 3 - Responsibility for Functions

28	Determine whether Local Choice Functions (as defined in Local Authority (Functions & Responsibilities) (England) Regulations 2000 as amended) will be exercised by Council or the Cabinet and undertake such local choice functions as allocated to Council.
29	Discharge any other function which is by law reserved to Council.
30	Approval and allocation of the Council's annual borrowing limit
31	The appointment of review boards under regulations made pursuant to Section 34(4) of the Social Security Act 1998
32	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.
33	Any resolution for whole Council elections
34	Any change in the name of electoral areas
35	Any decision as to whether a casino is located in Gloucester

## Part 3 - Responsibility for Functions

### PART 3C: Committee Functions

- 3C.1 Council has established the Committees set out in Table 2 below to discharge certain functions. Council retains the right to a concurrent and overriding exercise of all functions in Table 2.
- 3C.2 The Council must have at least one Overview and Scrutiny Committee.
- 3C.3 A Committee may establish such Sub-Committee(s) as it sees fit to undertake certain of its functions and the Table below include such Sub-Committees.
- 3C.4 Unless otherwise required by law, a Committee or Sub-Committee in Table 2 may determine not to exercise a function delegated to it and refer that function upwards for determination by respectively Council or the parent Committee.

**Table 2- Functions of Committees**

<b>Overview and Scrutiny</b>	
1	Co-ordinate, champion and lead on the scrutiny of Council and Executive decisions.
2	Have all of the functions, powers and duties conferred by Section 21 of the Local Government Act 2000 (as amended).
3	Determine the allocation of work in the event that the scope of the subject matter of a scrutiny study or investigation overlaps the role of more than one Sub-Committee or Task and Finish Group.
4	Review the operation of the scrutiny process and work programmes of the Overview and Scrutiny Sub Committees and Task and Finish Groups and inform and advise Council in relation to priorities and the allocation of resources.
5	Oversee and review the resources, support, training and development of Overview and Scrutiny Members.
6	Develop a positive "critical friend" approach to the role of scrutiny of the Council and Community issues.
7	Provide and co-ordinate the input to an annual report to Full Council on such issues or topics as the Committee sees fit.
8	Give consideration to the management of matters called in for review under paragraph 14 of the Overview and Scrutiny Rules.
9	Give consideration to matters referred to it by the Councillors' Call for Action.
10	Review and scrutinise the work of the Executive.
11	Review and scrutinise the content of the Forward Plan.
12	Review and scrutinise the policies of the Council.
13	Consider any matters which affect the authority, the City of Gloucester (or part of it) or its inhabitants (or some of them).
<b>Planning Committee</b>	
1	To determine planning applications, the terms of planning agreements and such other matters as are considered appropriate from time to time, excluding matters relating to policy.
2	To determine the Council's response to major planning applications in neighbouring districts where the Council is a consultee.
3	To deal with all matters arising under the building regulation code and associated legislation except matters expressly delegated to the relevant Corporate Director .

## Part 3 - Responsibility for Functions

4	To determine matters relating to planning as a District Planning Authority excluding strategic planning matters, such as: (a) The preparation, adoption and review of the Council's statutory Local Development Plan and (b) Representation of the District Planning Authority's view to other bodies as appropriate on strategic planning matters.
5	To determine all matters relating to the Section 106 process - determining Council priorities for Developer contributions.
6	Without prejudice to the above roles and the Council's Scheme of Delegation the Planning Committee shall be responsible for those matters set out in Part A (Functions relating to Town and Country Planning and Development Control) of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
7	To approve the Planning Enforcement Plan.
8	To determine Neighbourhood Planning applications.
9	To determine all future matters regarding the making of Local Development Orders.
10	To determine: <ul style="list-style-type: none"> <li>• 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.</li> <li>• Applications submitted by a serving Member or Officer of the Council; or submitted by an immediate relative to either of the above.</li> <li>• Applications, which constitute a significant departure from the most up to date Local Plan that is formally approved or adopted by the Council for Development Control purposes.</li> <li>• Planning applications for 50 or more new houses/flats.</li> <li>• Applications which entail more than 2000 square metres of new non-residential gross floor space.</li> <li>• New buildings or structures which exceed 20 metres in height.</li> <li>• 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; Unilateral Undertakings; and Deeds of Variation.</li> <li>• Applications which are accompanied by an Environmental Statement.</li> <li>• Applications for change of use to hot food takeaway, except where no objections are received.</li> <li>• Applications for a change of use to a pay-day loan shop or betting office, where the Officer recommendation is for approval.</li> <li>• Applications for the demolition of a listed building (other than minor associated buildings within the curtilage).</li> <li>• Applications for development that significantly affects the setting of a grade 1 or 2* Listed Building or a Scheduled Monument.</li> <li>• Applications for the removal of trees protected by a Tree Preservation Order (except where exempted by the Act) and not associated with an application for planning permission, where there are objections received.</li> </ul> <p>PROVISOs:</p> <p>(a) 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.</p>

## Part 3 - Responsibility for Functions

	<p>(b) 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 relevant Corporate Director, the Head of Place, the Chair of the Planning Committee or Party Spokespersons.</p> <p>(c) The relevant Corporate Director, the Head of Place 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.</p>
<b>Licensing and Enforcement Committee</b>	
1	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: <ul style="list-style-type: none"> <li>• Sex Establishment Licensing Policy</li> <li>• Licensing Policy Statement - Licensing Act 2003</li> <li>• Gambling Policy - Statement of Principles - Gambling Act 2005.</li> </ul>
2	To receive information from the County Council and other relevant bodies on matters relating to the Council's licensing functions.
3	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.
4	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 Responsibilities) (England) Regulations 2000, the Licensing Act 2003 and the Gambling Act 2005.
5	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.
6	To receive reports and determine policy in relation to street trading.
7	To approve policy and to determine fees in relation to scrap metal dealer licensing.
<b>Licensing and Enforcement Sub-Committee (Licensing and Gambling)</b>	
1	To undertake all matters relating to the discharge of functions in accordance with the powers delegated by the Parent Committee.
2	The Sub-Committee will meet to hear appeals relating to the Licensing Act 2003 and the Gambling Act 2005.
<b>Licensing and Enforcement Sub-Committee (Enforcement)</b>	
1	To undertake all matters relating to the discharge of functions in accordance with the powers delegated by the Parent Committee.
2	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.
3	To hear appeals against refusals of applications for, or conditions applied to, street trading consents.

## Part 3 - Responsibility for Functions

4	To consider contentious applications for scrap metal dealer licences and to hear appeals against refusals of applications for scrap metal dealer licences.
<b>Audit and Governance Committee</b>	
<b>Governance, risk and control</b>	
1	<p>Monitor the adequacy and effectiveness of the Council's governance arrangements including:</p> <ul style="list-style-type: none"> <li>• Monitoring the effectiveness of the Chief Officer's responsibility for ensuring an adequate internal control environment;</li> <li>• Monitoring the arrangements for the identification, monitoring and control of strategic and operational risk within the Council;</li> <li>• Monitoring the adequacy and effectiveness of the arrangements in place for combating fraud and corruption;</li> <li>• Providing an annual report to Council that its systems of governance are operating effectively, which includes the Committee's performance in relation to the terms of reference;</li> <li>• Reviewing and approving the annual Statement of Accounts, Annual Governance Statement and its associated assurance framework;</li> <li>• Considering the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements;</li> <li>• Ensuring that the Chief Internal Auditor has the right of independent access to the Committee and its Chair;</li> <li>• Reviewing and monitoring treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice;</li> <li>• Considering and advising changes to the Council's Constitution in respect of Contract Standing Orders and Financial Regulations;</li> <li>• Formulating and keeping under review a Code of Conduct to promote high ethical standards amongst Officers and doing anything that is considered to promote and maintain high standards of conduct by Officers;</li> <li>• Formulating and keeping under review the Council's 'whistle-blowing' policy; and</li> <li>• Formulating and keeping under review the Council's arrangements for handling complaints and investigations by the Local Government Ombudsman.</li> </ul>
<b>Ethics and Behaviours</b>	
2	<p>To promote, maintain and assist the achievement of high standards of conduct by Councillors and co-opted members in accordance with the Council's Code of Conduct for Members.</p> <ul style="list-style-type: none"> <li>• To monitor the operation of the Code of Conduct for Members;</li> <li>• To advise the Council on any amendment or revision of the Code;</li> <li>• To secure adequate and appropriate training of Councillors and co-opted Members on the Code of Conduct for Members;</li> <li>• To give general guidance and advice to Councillors on Members' interests and keep under review the Register of Members' Interests maintained by the Monitoring Officer; and</li> <li>• To give general guidance and advice to Councillors and employees on gifts and hospitality.</li> </ul>

## Part 3 - Responsibility for Functions

<b>External Audit</b>	
3	<p>Monitor the adequacy and effectiveness of the Council's external audit service and respond to its findings. Specifically:</p> <ul style="list-style-type: none"> <li>• Considering the appointment, nature and scope of the external audit of the Council's services and functions;</li> <li>• Receiving and considering all external audit reports including the annual plan, annual audit letter and governance report; and</li> <li>• Monitoring management's response to the external auditor's findings and the implementation of external audit recommendations.</li> </ul>
<b>Internal Audit</b>	
4	<p>Monitor the adequacy and effectiveness of the Internal Audit service. Specifically:</p> <ul style="list-style-type: none"> <li>• Approving the internal audit charter;</li> <li>• Approving the annual risk based internal audit plan;</li> <li>• Receiving communications from the Chief Internal Auditor on the internal audit activity's performance relative to its plan and other matters, including the annual report and opinion;</li> <li>• Receiving and considering major Internal Audit findings and recommendations;</li> <li>• Monitoring management's response to Internal Audit findings and the implementation of the recommendations;</li> <li>• Making appropriate enquiries of management and the Chief Internal Auditor to determine whether there are inappropriate scope and resource limitations;</li> <li>• Agreeing the scope and form of the external assessment as part of the quality assurance and improvement plan;</li> <li>• Receiving the results of internal and external assessments of the quality assurance and improvement programme, including areas of non-conformance with professional standards; and</li> <li>• Approving significant consulting services not already included in the audit plan, prior to acceptance of the engagement, if this materially impacts on core assurance activity.</li> </ul>
<b>Constitution</b>	
5	<p>To grant dispensations to Councillors and co-opted Members related to interests specified in the Code of Conduct for Members following written requests to the proper officer (Monitoring Officer) by a Member or Co-opted Member under section 33 of the Localism Act 2011, when the Council:</p> <ul style="list-style-type: none"> <li>• Considers that granting the dispensation is in the interests of persons living in the authority's area;</li> <li>• Considers that it is otherwise appropriate to grant a dispensation; and</li> <li>• Considers appeals against decisions made by the Monitoring Officer in exercise of their dispensation powers.</li> </ul>
<b>Hearings Panel</b>	
6	<p>To establish a Hearings Panel to make recommendations to Council on the appointment of an Independent Person to hear allegations that Members have failed to comply with the Member's Code of Conduct. Specifically to:</p>

## Part 3 - Responsibility for Functions

	<ul style="list-style-type: none"> <li>Assess and review allegations of Member misconduct; and</li> <li>Determine allegations of Member misconduct.</li> </ul>
<b>Powers</b>	
7	<ul style="list-style-type: none"> <li>The Committee has the right to require the attendance of any Council officers and/or members in order to respond directly to any issue under consideration;</li> <li>To review any issues referred to it by the Head of Paid Service, a Corporate Director or any Council body; and</li> <li>The power to call expert witnesses from outside the Council to give advice on matters under review or discussion.</li> </ul>
<b>General Purposes Committee</b>	
1	To make recommendations to Council on: <ul style="list-style-type: none"> <li>(a) changes to the Constitution (excluding changes within the remit of the Audit and Governance Committee)</li> <li>(b) polling district and polling place arrangements</li> <li>(c) proposals to change the name of the electoral area</li> <li>(d) any functions in relation to parishes, parish meetings and parish councils, including changing the name of a parish</li> <li>(e) community governance matters, including the outcome of any community governance review</li> <li>(f) the recommendations of the Independent Remuneration Panel in respect of the Scheme of Members' Allowances.</li> </ul>
2	To make recommendations to the Returning Officer in respect of elections matters.
3	To make recommendations to the Electoral Registration Officer in respect of electoral registration matters.
4	To make, amend or revoke bylaws.
5	To approve changes to staff terms and conditions and policies relating to employee remuneration.
6	To consider the Pay Policy Statement and refer it to Council for approval
7	To determine policies relating to local government pensions and discretionary compensation
8	To deal with any matter which, by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended or any other statutory provision, cannot be the responsibility of the Cabinet and does not fall within the terms of reference of any other Committee or within the Scheme of Officer Delegations.
9	To deal, where legally permissible, with any matter, including the authorisation of legal proceedings, which requires a decision of the Council and which cannot reasonably be dealt with in the normal cycle of meetings.
<b>Senior Appointments Committee</b>	
1	To be responsible for the appointment of the Managing Director and Corporate Directors.
2	To refer the appointment of the Head of Paid Service to Council for approval.
3	To recommend to Council, on a permanent, temporary or acting up basis, a person to be designated as the S151 Officer and the Monitoring Officer.
4	To determine the conditions on which the Managing Director and Corporate Directors hold office, including deciding on matters of early retirement.
5	To suspend the Managing Director, Corporate Directors and Statutory Officers whilst an investigation takes place into alleged misconduct.
6	To manage and consider any disciplinary and/or capability and any grievance matters arising in relation to the Managing Director, Corporate Directors and the Statutory Officers

## Part 3 - Responsibility for Functions

7	To consider allegations concerning the conduct or capability of the Managing Director, Corporate Directors and the Statutory Officers in order to establish whether or not they are sufficiently well-founded and serious in content to justify investigation.
8	To carry out the function of an Investigating & Disciplinary Committee as set out in the JNC Conditions of Service for Chief Executives and the JNC Conditions of Service for Chief Officers.
9	<p>In respect of Statutory Officers to:</p> <ul style="list-style-type: none"> <li>(a) decide whether the issues requires no formal action or</li> <li>(b) whether the issue should be referred to an Independent Person</li> <li>(c) be responsible for the appointment and terms of reference of the Independent Person</li> <li>(d) receive and consider the report of the Independent Person</li> <li>(e) hold a capability or disciplinary hearing</li> </ul> <p>Following receipt of any Independent Person report, to determine a course of action (up to and including dismissal) within the Council's powers under law and in accordance with the Council's procedures including the procedures set out in the Officer Employment Procedure Rules. Council must approve any dismissal of Statutory Officers.</p>
10	<p>In respect of the Managing Director and Corporate Directors to:</p> <ul style="list-style-type: none"> <li>(a) appoint, if appropriate, an investigator on behalf of the Committee (which power may be delegated to an officer)</li> <li>(b) receive and consider any report of an investigator</li> <li>(c) hold a capability and/or disciplinary hearing</li> </ul> <p>Following any capability and/or disciplinary hearing, determine a course of action (up to and including dismissal) within the Council's powers under law and in accordance with the Council's procedures including the procedures set out in the Officer Employment Procedure Rules.</p>
<b>Appeals Committee</b>	
1	To hear and determine appeals against decisions of the Senior Appointments Committee in respect of action taken against the Managing Director or Corporate Director (other than a Statutory Officer).
2	To hear and determine appeals against any action short of dismissal taken by the Senior Appointments Committee against a Statutory Officer.



## Part 3 - Responsibility for Functions

### PART 3D: Officer Non-Executive Functions

- 3D.1 All non-Executive Functions, other than those allocated in Parts 3B & C above, are delegated to the Managing Director and Corporate Directors as set out in Table 3 below.
- 3D.2 In addition, the Managing Director and Corporate Directors will exercise powers or duties specifically delegated to them by Council, Committee, Sub-Committee or Joint Committee.
- 3D.3 The Managing Director and Corporate Directors are not required to exercise all delegations personally and may sub-delegate any Function in this Part 3D to Officers of suitable experience and seniority.
- 3D.4 An Officer does not have delegated authority to take a Significant Decision unless (a) specifically authorised to do so by Council, Committee, Sub-Committee or Joint Committee, or (b) the Managing Director (or, in his absence or where he is unable to act, a Corporate Director) is taking action under urgency powers as set out in this Part 3D.
- 3D.5 The fact that a function is delegated to an Officer under this Scheme does not preclude the person or body which gave the delegation from exercising the function in question.
- 3D.6 Council or an Appropriate Committee may direct in any particular case that a delegated power to an Officer in respect of a non-Executive Function shall not be exercised by the Officer and that the Function in question shall instead be exercised by the Council or Appropriate Committee. Such direction must be exercised in consultation with the Managing Director or Appropriate and Corporate Director.
- 3D.7 The Managing Director and Corporate Directors may at their discretion refer any matter to Council or Appropriate Committee for decision.
- 3D.8 Article 13 'Decision Making' applies to the exercise of all Non-Executive Functions by Officers in this Part 3D.

**Table 3-Non-Executive Functions of Officers**

<b>Managing Director</b>	
<b>Function</b>	<b>Condition</b>
Discharge any non-Executive Function not otherwise allocated in Parts 3B-D of the Constitution	Unless prohibited by law.
Discharge any non-Executive Function which is delegated to an Officer under Part 3D	Where that Officer is absent or unable to act through conflict of interest or otherwise. Except in the case of the Monitoring Officer or S151 Officer where they have allocated the function to their deputy.
Take an urgent decision in respect of a non-Executive Function, including a Significant Decision, in a situation where there is not sufficient time for a report to be considered by Council or Appropriate Committee.	Unless it is a decision that in law can only be made by Council. Wherever possible this shall be done in consultation with the Mayor or Appropriate Committee Chairman. The decision shall be reported to the next scheduled meeting of Council or the Appropriate Committee.

## Part 3 - Responsibility for Functions

<b>Managing Director</b>	
Take an urgent decision not in accordance with the Budget or the Policy Framework	In accordance with Budget & Policy Framework Rules (Part 4 Rule 4) The decision shall be reported to the next available meeting of Council.
Determine claims and payments in accordance with the scheme of Member Allowances	
Discharge functions and take actions and decisions in respect of elections, electoral registration, referenda and related legislation	Except as specifically allocated to Council in Part 3B Table1.
Discharge functions and responsibilities with regard to a parish council	Except as specifically allocated to Council in Part 3B Table1.
Undertake the functions of the Head of Paid Service including the duty, where he considers it appropriate to do so, of reporting to Council on the manner in which the Council functions are co-ordinated, the number and grades of staff to discharge those functions and the organisation and proper management of those staff	
Approve reorganisation of functions and restructuring of staff within service areas and the transfer of staff and functions between service areas	Except where the Managing Director considers it appropriate to refer a report to Council.
Approve redundancy of or an application for early retirement (including ill health retirement) of an employee	Except (in the case of the Managing Director or Corporate Director) as specifically allocated to Council or Committee in Part 3B Table 1 or and Part 3C Table 2. Subject to corporate HR policies.
Appoint, dismiss and discipline employees within their service areas and determine their individual terms and conditions of employment and matters relating thereto	Chief Officer level and above is allocated to Council or Senior Appointments Committee subject to Officer Employment Procedure Rules (Part 4F) and corporate HR policies. Subject to appropriate budgetary provision.
Approve HR procedures and policies which relate to employee terms and conditions of employment	Except as specifically allocated to General Purposes Committee in Part 3C Table2.
Undertake functions in respect of local government pensions	Except as specifically allocated to General Purposes Committee in Part 3C Table2.
Authorise any Officer for any legal purpose including Proper and Statutory Officer appointments	Unless otherwise prescribed by law or allocated to Council in Part 3B.
District Emergency Co-Ordinator	
Make minor and consequential amendments to the Constitution to reflect changes of fact including changes in allocation of Functions	Corporate Directors, Council Solicitor and Group Leaders to be informed of any change which the Managing Director considers to be significant.
<b>Corporate Directors</b>	
<b>Function</b>	<b>Condition</b>

## Part 3 - Responsibility for Functions

Discharge any Non-Executive Function which is delegated to an Officer (including the Managing Director ) under this Part 3D	Where that Officer is absent or unable to act through conflict of interest or otherwise Except in the case of the Monitoring Officer or S151 Officer where they have allocated the function to their deputy.
Undertake the statutory role of Head of Paid Service	Where the Managing Director is absent or unable to act through conflict of interest or otherwise. The role rests with the Corporate Director who is deputising for that period.
Appoint, dismiss and discipline employees within their service areas and determine their individual terms and conditions of employment and matters relating thereto	Chief Officer level and above is allocated to Council or Senior Appointments Committee and subject to Employment Rules (Part 4) and corporate HR policies. Subject to appropriate budgetary provision.
Approve revenue budget virements between service areas/budget heads not exceeding £25,000	In consultation with Appropriate Corporate Head. If exceeding £10,000, Cabinet Member to be informed.
Approve ex gratia and maladministration compensation payments up to £5,000	In consultation with the Head of Policy & Resources and Council Solicitor.
Set fees and charges and increase in line with inflation	Cabinet Member or Appropriate Committee Chairman to be informed.
Determine applications for: (a) full planning permission; (b) outline planning permission; (c) approval of reserved matters; (d) listed building consent; (e) conservation area consent; (f) advertisement control consent	Except as specifically allocated to Planning Committee under Part 3C Table 2.
Determine planning applications relating to trees including (a) trees covered by Tree Preservation Orders: and (b) trees within Conservation Areas.	Except as specifically allocated to Planning Committee under Part 3C Table 2.
Other actions and decisions (including enforcement, entry on to land and planning agreements) as local planning authority under the Town & Country Planning Act 1990, Planning (Listed Building & Conservation Area) Act 1990 and all planning related legislation.	Except as specifically allocated to or by Council.
Authorise the stopping up or diversion of a highway, footpath or bridleway or extinguish public rights of way over land held for planning purposes.	
Extinguish public right of way over land acquired for clearance.	

## Part 3 - Responsibility for Functions

Undertake functions relating to high hedges and protection of important hedgerows.	
Determine jointly with the Council Solicitor the wording of, and completion of agreements under Section 106 of the Town and Country Planning Act 1990.	Except as specifically allocated to Planning Committee under Part 3C Table 2.
Determine any application for the grant, renewal, variation or transfer of a licence, consent, permit or permission.	Except as specifically allocated to Licensing and Enforcement Committee or Sub-Committee under Part 3C Table 2.
Suspend or continue the suspension of a hackney carriage or private hire driver, vehicle or operator's licence.	Where public safety is at risk.
Revoke or withdraw a licence, consent, permit or permission.	Except as specifically allocated to Licensing Committee or Sub-Committee under Part 3C Table 2..
Other actions and decisions (including enforcement, entry on to land and waiving of fees) as licensing authority under the Licensing Act 2003, Gambling Act 2005 and all other licensing legislation	Except as specifically allocated to Council, Licensing Committee or Sub-Committee under Part 3C Tables 1 and 2.
Highway authority functions (as delegated to the Council by the County Council).	Except as specifically allocated to Licensing Committee under Part 3C Table 2.
Discharge all functions under the Health & Safety at Work etc. Act 1974 and other health and safety related legislation (otherwise than in the Council's capacity as employer).	
Discharge all functions under food and food safety legislation which cannot be exercised as Executive Functions.	
Authorise legal proceedings.	In consultation with the Council Solicitor.
<b>Head of Policy &amp; Resources</b>	
<b>Function</b>	<b>Condition</b>
Undertake the functions of the Council's S151 Officer to ensure proper administration of the Council's financial affairs.	
Approve the carry forward of budget underspend to next financial year for same purpose as originally intended.	
Make minor changes to the Financial Rules to reflect changes in fact and accounting and audit requirements/best practice.	Managing Director and Corporate Directors to be informed
Make minor changes to the Contract Rules to reflect changes in fact and procurement requirements and best practice.	In consultation with the Council Solicitor and Managing Director and Corporate Directors to be informed
<b>Corporate Director (Service Transformation)</b>	
<b>Function</b>	<b>Condition</b>
Undertake the functions of the Monitoring officer prescribed by law.	

## 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 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 the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter; or
- (c) 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.

## Part 3 - Responsibility for Functions

### PART 3E: Executive Functions

#### General

- 3E.1 The Council operates a Leader and Cabinet form of Executive and the Leader of the Council specifies how the functions of the Executive (known as 'Executive Functions') will be carried out.
- 3E.2 In law the Leader of the Council may discharge any Executive Functions and exercise any powers which are the responsibility of the Executive; alternatively the Leader may arrange for the discharge of any of those Functions by delegation to any of the following:-
- (a) the Cabinet
  - (b) a Cabinet Committee
  - (c) an individual member of the Cabinet (Cabinet Member)
  - (d) an officer of the Council
  - (e) another local authority
  - (f) jointly with another local authority through a joint committee or officer

#### Delegations

- 3E.3 The Leader has exercised their power of delegation in the manner set out below in Table 4 'General Scheme of Delegation of Executive Functions' and Table 5 'Additional Delegation of Executive Functions to Officers'. In Table 4 reference to 'Cabinet Member' means a Cabinet Member acting in portfolio as set out in Appendix A and reference to 'Officer' means Managing Director or Corporate Director.
- 3E.4 The Leader has directed that the Executive Functions delegated to Cabinet Members as set out in Table 5 shall not be sub-delegated to Officers without his prior consent.
- 3E.5 Each person or body to whom an Executive Function is delegated in Tables 5 and 6 and Appendix A shall be empowered to take any step in the course of or otherwise for the purposes of or in connection with the discharge of the Function, do anything incidental or conducive to discharge of the Function or do anything expedient in connection with the discharge of the Function.
- 3E.6 The Leader may amend their delegations at any time by giving notice in writing to any person who currently holds the power and any person to whom the power is now to be delegated and to the Proper Officer ( in this case the Managing Director or in their absence or where they are unable to act the Council Solicitor) setting out the change to be made; such amendment to take effect immediately on confirmation of receipt by the Proper Officer. The Proper Officer will ensure that this Part 3 of the Constitution is updated forthwith.
- 3E.7 Where an Executive Function has been delegated by the Leader this does not prevent the Leader from exercising that Function.
- 3E.8 In the absence of the Leader of the Council the person or persons designated by the Leader and notified by the Leader to the Proper Officer as having responsibility for the Leader's area(s) of responsibility is or are authorised to exercise the functions of the Leader pursuant to the Constitution.
- 3E.9 Article 13 'Decision Making' applies to the exercise of all Executive Functions in this Part 3E.

## Part 3 - Responsibility for Functions

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### Officer Delegations - Special Provisions

- 3E.10 The Managing Director or Corporate Director are not required to exercise all delegations personally and may sub-delegate any Function in this Part 3E to officers of suitable experience and seniority.
- 3E.11 An Officer does not have delegated authority to take a Key Decision unless (a) specifically authorised to do so by the Leader or (b) the Managing Director (or, in their absence or where they are unable to act, a Corporate Director) is taking an urgent decision as set out in this Part 3E.
- 3E.12 The fact that a function is delegated to an Officer under this Scheme does not preclude the person or body which gave the delegation from exercising the function in question.
- 3E.13 The Leader may direct in any particular case that a delegated power to an Officer in respect of an Executive Function shall not be exercised by an officer and that the Function in question shall instead be exercised by the Leader or Cabinet. Such direction must be exercised in consultation with the Managing Director or Appropriate Corporate Director(s).
- 3E.14 A Cabinet Member may in respect of an Executive Function which falls within their portfolio direct in any particular case that a delegated power to an Officer shall not be exercised by an officer and shall instead be exercised by them as Cabinet Member. Such direction must be exercised in consultation with the Managing Director or Appropriate Corporate Director and the Leader.
- 3E.15 The Managing Director or Corporate Director may at their discretion and in consultation with the Leader or Cabinet Member refer any matter to the Leader or Cabinet for decision.
- 3E.16 Officers have responsibility to report to the Leader or Cabinet Member matters that are of political or strategic significance where that body or person is not required to make a decision but where it is proper for them to be aware of the position.

## Part 3 - Responsibility for Functions

Table 4 –Executive Functions

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Corporate Director (CD))
Policy & Strategy					
Recommend to Council all plans strategies and policies which comprise the Policy Framework (Part 2 article 4 ) and initiate consultation on such plans policies and strategies			✓		
Agree in year changes to the Policy Framework to the extent permitted by Council or by the Constitution			✓		
Refer to Cabinet for discussion those plans strategies and policies which comprise the Policy Framework and initiate any appropriate consultation on them	✓	✓			
Take urgent decisions that are contrary to or not wholly in accordance with the Policy Framework	✓		✓		MD
Refer to Cabinet those plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval	✓	✓			MD/CD
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval			✓		
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet Member approval (except Key Decisions)		✓			
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Officer approval (except Key Decisions)					MD/CD



## Part 3 - Responsibility for Functions

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Corporate Director (CD))
Respond to consultations from Government, local authority associations and similar bodies which have policy or cross service issues	✓	✓			
Respond to all other consultations					MD/CD
Implement the Council's Risk Management Policy & Strategy	✓	✓	✓		MD/CD
<b>Finance</b>					
Prepare and consult on the Council's Budget and recommend to Council for approval			✓		
Receive and consider quarterly budget monitoring reports			✓		
Take urgent decisions that are contrary to or not wholly in accordance with the Budget	✓		✓		MD
Make bid for funding with resource implications exceeding £250,000			✓		
Make bid for funding with resource implications exceeding £100,000 and not exceeding £250,000	✓	✓			
Make bid for funding with resource implications not exceeding £100,000					MD/CD
Propose to Council a contribution to reserves above the level set in the Budget			✓		
Agree use of charging and trading powers		✓	✓		
Set fees and charges		✓			
Agree increase in fees and charges by more than inflation			✓		
Agree increase in fees and charges in line with inflation					MD/CD
<b>Service Delivery</b>					

## Part 3 - Responsibility for Functions

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Corporate Director (CD))
Take all steps reasonably necessary to facilitate the effective and efficient delivery of services within their portfolio		✓			
Take all steps reasonably necessary for the effective and efficient delivery of services for which they are responsible				<b>GCoC/SDC/T BC</b>	MD/CD
Undertake internal changes and improvement of the Council's services					MD
<b>Commissioning and Contracts</b>					
Approve the means by which the Council's services will be provided including through a local authority company, community interest company, private organisation, trust or public/private partnership			✓		
Arrange for any Executive Function to be undertaken by another local authority			✓		
Arrange for any Executive Function to be exercised jointly with one or more local authorities through joint arrangements			✓		
Appoint member to a joint committee which undertakes Executive Functions and decide on the number of Members to be appointed and their term of office	✓				
Agree to Council appointment of member to a joint committee which undertakes at least one Executive Function and agree the number of members to be appointed and their term of office	✓				
Represent (or arrange for a Cabinet Member or Officer to represent) the Council as shareholder or	✓				

## Part 3 - Responsibility for Functions

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Corporate Director (CD))
member in a company in which the Council holds an interest					
Monitor the performance of contracts and service level agreements in respect of all non-internally provided services					MD/CD
Engage consultant or locum not exceeding £50,000 pa					MD/CD
Engage consultant or locum exceeding £50,000 pa			✓		
Accept tenders within budget and exceeding £ <del>250400</del> 25400,000		✓			
Accept tenders and quotations within budget and not exceeding £ <del>25400</del> 25400,000					MD/CD
Approve waiver to Contract Rules where the value is in excess of £ <del>25400</del> 25400,000			✓		
Approve waiver to Contract Rules where the value does not exceed £ <del>25400</del> 25400,000 pursuant to Contract Rule 6.3.2					MD/CD
Approve waiver from Contract Rules where the value exceeds £ <del>25400</del> 25400,000 and an urgent decision is required pursuant to Contract Rule 6.3.1					MD
<b>Constitution &amp; Democratic Process</b>					
Make Key Decision		✓	✓		
Make urgent Key Decision	✓		✓		MD
Respond to call-in of a decision	✓	✓	✓		MD/CD
Respond to petition to Council		✓			
Appoint and remove Cabinet Members and decide their portfolios	✓				
Establish Cabinet Committee or working group			✓		

## Part 3 - Responsibility for Functions

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Corporate Director (CD))
Delegate Executive Function to a Cabinet Member or Officer pursuant to 3E.6	✓				
Delegate Executive Function to an Officer with prior consent of Leader pursuant to 3E.4		✓	✓		
Undertake such specific Executive Function as may be allocated from time to time by the Leader	✓	✓	✓		MD/CD
Undertake any Executive Function which is delegated to an Officer where the Leader directs it should be exercised by Cabinet			✓		
Undertake any Executive Function which is delegated to an Officer where the Officer decides to refer it to Cabinet			✓		
Undertake any Executive Function delegated to a Cabinet Member where through absence, conflict or otherwise the Cabinet Member is unable to act	✓				
Undertake any Executive Function delegated to Cabinet which in the opinion of the Managing Director requires an urgent decision before the next meeting of Cabinet	✓				
Appoint or nominate individuals to outside bodies in respect of Executive Functions and revoke or withdraw such appointment or nomination provided all Group Leaders agree	✓				
<b>Legal Services</b>					
Undertake the role and functions of the Council's Solicitor and chief legal officer and provide the Council's legal service				TBC	
<b>Audit</b>					

## Part 3 - Responsibility for Functions

<b>FUNCTION</b>	<b>Leader</b>	<b>Cabinet Member</b>	<b>Cabinet</b>	<b>Other Local Authority</b>	<b>Officer (Managing Director (MD) or Appropriate Corporate Director (CD))</b>
Undertake the functions of the Council in respect of internal audit				<b>GCoC</b>	
<b>HR</b>					
Undertake functions of the Council in respect of human resources and payroll				<b>GCoC</b>	
<b>Building Control</b>					
Undertake functions of the Council in respect of building control				<b>SDC</b>	
<b>Assets &amp; Property</b>					
Agree asset strategic/management plan			✓		
Dispose of non-land assets with a value exceeding £5,000			✓		
Dispose of non-land assets with a value not exceeding £5,000					MD/CD
Make compulsory purchase order (CPO)			✓		
Acquire land or property following CPO					CD
Acquire land (other than following CPO) where the value exceeds £250,000;			✓		
Acquire land (other than following a CPO) where the value is more than £50,000 but does not exceed £250,000;		✓			
Acquire land (other than following a CPO) where the value does not exceed £50,000;					CD

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## Part 3 - Responsibility for Functions

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Corporate Director (CD))
Agree Surplus Property Register (in consultation with appropriate Corporate Director); and determine whether to retain the property or to dispose of it (in consultation with the Appropriate Corporate Director) (the timing of such disposal to be at the discretion of the Asset Manager)		✓			
Dispose of, exchange or appropriate public open space (any value) where there have been objections to the statutory notice of disposal or appropriation			✓		
Appropriate land (except public open space where objections to the statutory notice of intended appropriation are received)		✓			
Dispose of or exchange land with a value exceeding £250,000 (including at an undervalue)			✓		
Dispose of or exchange land with a value exceeding £50,000 but not exceeding £250,000 including at an undervalue (and including public open space disposals where there have been no objections to the statutory notice of disposal)		✓			
Dispose of or exchange land with a value not exceeding £50,000 including at an undervalue (and including public open space disposals where there have been no objections to the statutory notice of disposal)					CD
Dispose of statutory allotments			✓		
Apply to Secretary of State to dispose of housing land under Housing Act 1985		✓			
Give public notice of a proposal to dispose of or change the use of public open space					CD

## Part 3 - Responsibility for Functions

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Corporate Director (CD))
Approval of rent reviews where the annual rent exceeds £250,000 and reviews are the subject of negotiation			✓		
Determination of rent reviews: (a) Where the annual rental does not exceed £250,000; or (b) Where the annual rental exceeds £250,000, where a calculation mechanism is set down in the lease and has no element of negotiation					CD
Grant consents and licences under any leases granted by the Council					CD
Apply for consents and licences under any leases under which property is held by the Council					CD
Authorise rent subsidy (exceeding a value of £250,000) to third party on Council owned land			✓		
Authorise rent subsidy (exceeding £50,000 but not exceeding a value of £250,000) to third party on Council owned land		✓			
Authorise rent subsidy (not exceeding £50,000) to third party on Council owned land					CD
All other matters within the day-to-day management of the Council's property portfolio where the value of the action taken does not exceed £50,000					CD

**Definitions:**

## Part 3 - Responsibility for Functions

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- “Acquire” includes the acquisition (including the acceptance of a surrender where appropriate) of a freehold or leasehold interest, rights, benefits or privileges, the dedication under statutory powers or obligations and includes the variation of any lease where the Council is a tenant under the lease.
- “Appropriation (appropriate)” is the formal transfer of property within the Authority from one statutory function to another
- “Dispose” includes the transfer of a freehold interest, dedication under statutory powers or obligations, easements (leasehold or freehold) and the grant, release, assignment or giving of a surrender (as appropriate) of any lease, covenants, benefits rights or privileges and includes the variation of any lease where the Council is a landlord under the lease.
- “Land” includes all buildings structures, rights and interests associated with land
- “Lease” includes any tenancy, licence, consent to occupy
- “Subsidy”, where there is reference to rent subsidy, is to the value of the identifiable rent, service charges, business rates and other outgoings for the identifiable period of commitment
- “Value”, where there is reference to a lease/tenancy/licence/surrender, is to the identifiable rent, service charges, business rates and other outgoings for the identifiable period of commitment



## Part 3 - Responsibility for Functions

### Additional Delegation of Executive Functions to Officers

3E.17 All Executive Functions, other than those allocated in Table 4 of this Part 3E, are delegated to the Managing Director and Corporate Directors as set out in Table 5 below.

3E.18 In addition, the Managing Director and Corporate Directors will exercise powers or duties specifically delegated to them by the Leader, Cabinet or a Cabinet Member.

**Table 5-Additional Executive Functions of Officers**

<b>Managing Director</b>	
<b>Function</b>	<b>Condition</b>
Discharge any Executive Function which is delegated to an Officer under Part 3E	Where that Officer is absent or unable to act through conflict of interest or otherwise.
Take an urgent decision in respect of an Executive Function (excluding a key decision) in a situation where there is not sufficient time for a report to be considered by the Leader or Cabinet Member.	Wherever possible this shall be done in consultation with the Leader and Cabinet Member (where not the Leader). The decision shall be reported to the next scheduled ordinary Cabinet meeting.
To authorise Officers to represent the Authority before a court or tribunal pursuant to: - (a) Paragraph 1(3) Schedule 3 of the Legal Services Act 2007 in respect of: - (i) Section 223 of the Local Government Act 1972 (ii) Section 60 of the County Courts Act 1984 (b) Paragraph 1(7) Schedule 3 of the Legal Services Act 2007 (c) The Lay Representatives (Rights of Audience) Order 1999.	In consultation with the Council Solicitor
Authorise any Officer to or for any legal purpose including Statutory Officer appointments.	Unless otherwise prescribed by law or allocated to Council in Part 3B.
Make arrangements with other local authorities for the placing of staff at the disposal of those other authorities.	
Authorise requests for investigations under the Regulation of Investigatory Powers Act 2000 and to maintain a register of investigations authorised under the Act.	
<b>Corporate Directors</b>	
<b>Function</b>	<b>Condition</b>
Discharge any Executive Function which is delegated to an Officer (including the Managing Director) under this Part 3E	Where that Officer is absent or unable to act through conflict of interest or otherwise.
Undertake the role of Managing Director	Where the Managing Director is absent or unable to act through conflict of interest or

## Part 3 - Responsibility for Functions

	otherwise. This Function falls to the Executive Director who is deputising for that period.
Undertake emergency planning and civil defence functions.	

### Appendix A - Cabinet ,Cabinet Member Portfolios and Decision making by Individual Cabinet Members

Cabinet	
1	The Cabinet will bear the responsibility for any of the local authority's functions which are delegated to it by the Leader.
2	The Leader will publish a Forward Plan at least monthly, showing a twelve-month programme of work and those decisions which are "Key Decisions", and also those decisions that may be made by an Individual Cabinet Member or which are delegated to an officer to make.

#### Decisions by Individual Cabinet Members

1. Decision making by Individual Cabinet Members applies only to executive functions that have been delegated to the Leader. The process does not apply to any function exercised by Council itself, or that Council has delegated to a committee, sub-committee or officer.
2. Individual Cabinet Members are empowered to make all executive decisions in respect of their own portfolio area of responsibility (portfolios are outlined below) except:
  1. Decisions already taken by Cabinet or an officer acting under delegated powers.
  2. Decisions involving a departure from the Council's Budget or Policy Framework or any Cabinet or regulatory committee policy.
  3. Decisions involving expenditure or savings ~~exceeding~~ £250,000 ~~or more~~.
  4. Decisions which the Leader wishes to be taken by the full Cabinet or a decision which the Cabinet Member has asked to be taken collectively by the full Cabinet.
  5. Where at least 3 Members of the Council request that a decision be taken by the full Cabinet.

provided that all such decisions will be taken by the decision maker having regard to the advice of the Council Solicitor and S151 Officer in interpreting these provisions.

#### 3. Cabinet Portfolios

Individual Cabinet Members are empowered by the Leader to make all executive decisions in respect of their own portfolio area of responsibility.

The allocation of portfolios to Cabinet Members will be reported to Council by the Leader of the Council from time to time.

~~in 2016/17 and their delegated executive functions will be as follows:-~~

## Part 3 - Responsibility for Functions

### **A. Leader of the Council and Cabinet Member for Regeneration and Economy**

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

- Regeneration
- Heritage and monuments
- Economic Development
- Markets and Street Trading
- Property & Asset Management
- City Centre Management
- Car Parking
- Street naming and numbering

### **B. Cabinet Member for Communities and Neighbourhoods**

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

- Housing Advice and Homelessness
- Private Sector Housing
- Disabled Facilities Grants
- Housing Allocation (Homeseeker)
- Housing Strategy (jointly with Cabinet Member for Housing and Planning Strategy)
- Community Engagement
- Neighbourhood Strategy
- Partnership Working
- Crime and Disorder
- Voluntary sector and grants
- Children and Young People
- Shopmobility
- Community Cohesion
- Advice Services
- Equalities (external)
- Safeguarding
- Night Time Economy including Nightsafe

### **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
- Neighbourhood Management
- Recycling
- Climate Change
- Environmental Enforcement
- Waste
- Parks and Countryside Unit
- Crematorium and Cemeteries
- Emergency Planning and flood resilience
- Play areas

## Part 3 - Responsibility for Functions

- Licensing and Environmental Health All matters within the Terms of Reference for Gloucestershire Airport Shareholder Forum, except any decisions which are not within the Council's approved Budget or which are inconsistent with the Council's Money Plan.

### **~~D. Cabinet Member for Housing and Planning Strategy~~**

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

- ~~Housing Strategy (jointly with Cabinet Member for Communities and Neighbourhoods)~~
- ~~Monitoring Stock Transfer Agreement for GCH~~
- ~~Housing supply, including Housing Zone~~
- ~~Planning~~
- ~~Joint Core Strategy~~
- ~~City Plan~~
- ~~Robinswood Hill~~

### **~~E. Cabinet Member for Performance and Resources~~**

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

- ~~Finance~~
- ~~Policy & Performance~~
- ~~PR/Communications~~
- ~~Business Transformation and Technology (client side)~~
- ~~Customer Services, Contact Centre and website~~
- ~~Personnel~~
- ~~Procurement~~
- ~~Revenues and Benefits (client side)~~
- ~~Equalities (internal)~~

### **~~F. Cabinet Member for Culture and Leisure~~**

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

- ~~Marketing Gloucester~~
- ~~Museums~~
- ~~Culture~~
- ~~Guildhall~~
- ~~Festivals and Events~~
- ~~Tourism/TIC~~
- ~~Leisure/Aspire client role/sports development~~

## Part 3 - Responsibility for Functions

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23 May 2016

**Responsibility for Functions**  
**Part 3 - 32**

## Part 4 - Rules of Procedure

	<b>Page</b>
Council Procedure Rules .....	2
Budget and Policy Framework Procedure Rules .....	18
Financial Regulations .....	21
Contract Rules .....	63
Cabinet Procedure Rules .....	102
Overview and Scrutiny Procedure Rules .....	107
Access to Information Procedure Rules .....	114
Arrangements for dealing with standards allegations under the Localism Act 2011 .....	122
Officer Employment Procedure Rules .....	130

## 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.

#### CONTENTS

Rule		
1.	Annual meeting of the Council .....	3
2.	Ordinary meetings .....	3
3.	Extraordinary meetings .....	4
4.	Appointment of substitute Members of Committees and Sub-Committees and Forums ...	4
5.	Time and place of meetings .....	5
6.	Duration of meetings .....	5
7.	Notice of and summons to meetings .....	5
8.	Chair of meeting .....	5
9.	Quorum .....	5
10.	Questions by the public .....	5
11.	Petitions and Deputations from the Public.....	6
12.	Questions by Members .....	6
13.	Motions on notice .....	7
14.	Motions without notice .....	8
15.	Rules of debate .....	9
16.	Previous decisions and motions .....	11
17.	Urgent Items .....	12
18.	Voting .....	12
19.	Minutes .....	13
20.	Record of attendance .....	13
21.	Exclusion of public .....	13
22.	Members' conduct .....	13
23.	Declarations of interest .....	14
24.	Disturbance by public .....	14
25.	Recording of Meetings .....	14
26.	Suspension and amendment of Council Procedure Rules .....	14
26.	Application to Committees and Sub-Committees .....	14
27.	Order of Seniority of Members .....	15
28.	Council Debate Flowchart .....	16
29.	Council Budget Flowchart .....	17

## Part 4 - Rules of Procedure

### 1. ANNUAL MEETING OF THE COUNCIL

#### 1.01 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 Head of Paid Service;
- (vi) receive any declarations of interests from Members;
- (vii) elect the Leader in years when an election has taken place;
- (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.

#### 1.02 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

#### 2.01 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.

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

#### 2.02 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;
- (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 functions of the Council meeting;
- (vi) receive petitions and deputations from the public;



## Part 4 - Rules of Procedure

- (vii) receive any announcements from the Mayor, Leader, Members of the Cabinet, Overview and Scrutiny Committee Chair, Licensing and Enforcement Committee Chair, Planning Committee Chair, Audit and Governance Committee Chair or the Head of Paid Service (time limit 10 minutes in total);
- (viii) receive oral questions from Members, including Leader and Cabinet Members' Question Time and Questions to Chairs of Meetings;
- (ix) determine which items of business set out in the summons to the meeting shall be approved without discussion and which items require discussion: after which the Council shall approve those items that can be approved without discussion and then consider the matters reserved for discussion in the following order
  - (a) proposals from the cabinet in relation to the Council's budget and policy framework
  - (b) reports from the Cabinet
  - (c) reports from the Council's Committees
  - (d) reports from the Overview and Scrutiny Committee;
- (x) receive Written Questions to Cabinet Members;
- (xi) an exception to the above rules will apply to the budget meeting of Council by the omission of Leader and Cabinet Members' Question Time, Questions to Chairs of Meetings and Written Questions to Cabinet Members.

### 3. EXTRAORDINARY MEETINGS

#### 3.01 Calling Extraordinary Meetings:

Those listed below may request the Head of Paid Service 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) 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);

## Part 4 - Rules of Procedure

- (v) that the Member or political group shall advise the Head of Paid Service 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 Head of Paid Service, may approve a Member attending as a deputy without such notice being given.

### 5. TIME AND PLACE OF MEETINGS

Ordinary meetings of Council shall commence at 18.30 hours.

The time and place of other meetings shall be determined by the Head of Paid Service and notified in the Summons.

### 6. DURATION OF MEETINGS

The length of time of Council meetings shall be limited to three hours, but shall only be closed after three hours if a two-thirds majority of those Members in attendance vote to close the meeting.

The length of time of other meetings (excluding Planning Committee, Licensing and Enforcement Committee and Audit and Governance Committee) 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 Head of Paid Service 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 Head of Paid Service will send a Summons authenticated by him or her to every Member of the Council. 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

## Part 4 - Rules of Procedure

- (2) Questions will be dealt with in the order they were received. However priority will be given to Gloucester City Council residents.
- (3) 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.
- (4) All public questions shall be put to the relevant Cabinet Member or Chair to respond.
- (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.
- (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 ([Part 5 – Codes and Protocols](#)).
- (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.

## Part 4 - Rules of Procedure

### 12. QUESTIONS BY MEMBERS

#### 12.01 Leader and Cabinet Members' Question Time

That a period of thirty 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.

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 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 within their portfolio of responsibilities subject to a copy of such question being delivered to the Head of Paid Service 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 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 of 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.

### 13. MOTIONS ON NOTICE

- (1) Notice of every motion, other than a motion which under Rule 14 may be moved without notice, shall be given in writing, signed by the Member or Members of the Council giving the notice (or alternatively by electronic form, provided that the Head of Paid Service is satisfied with proof of identity), and delivered, by noon at least eight clear working days before the next meeting of the Council, to the Head of Paid Service by whom it shall be dated, numbered in the order in which it is received, and entered in a book which shall be open to the inspection of every Member of the Council.

## Part 4 - Rules of Procedure

### **Motions To Be Set Out in Summons**

- (2) The Head of Paid Service shall set out in the summons for every meeting of the Council all Motions of which notice has been duly given in the order in which they have been received, unless the Member giving such a notice intimated in writing, when giving it, that they propose to move it at some later meeting, or has since withdrawn it in writing.

### **Selection of Motions**

- (3) Before the start of the Council meeting, Party Leaders will select, by a simple majority vote, which motions listed in the summons will be called for debate.

### **Motion Not Moved**

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

### **Automatic Reference to the Cabinet or Appropriate Committee**

- (5) If the subject matter of any motion of which notice has been duly given comes within the province of a Cabinet portfolio or any Committee, it shall, notwithstanding the provisions of Rule 15, be formally moved and seconded without speeches and thereupon shall automatically stand referred without discussion or debate to the Cabinet, or relevant Committee for consideration and report.

### **Scope of Motions**

- (6) Every motion shall be relevant to some matter in relation to which the Council have powers or duties or which affects the City.

### **Motions Out of Order**

- (7) If it shall appear to the Head of Paid Service that a motion, notice of which has been received, is not relevant to some matter in relation to which the Council has powers or duties or which affects the City, or is otherwise objectionable, the Head of Paid Service shall take the direction of the Chair as to whether or not it shall be placed on the Council summons, and the decision of the Chair thereon shall be final; but a Member may give oral notice of any motion which has been so ruled out of order, at the meeting at which it would have been submitted had it been on the Council summons, and, if the Council so direct, it shall be placed on the Council summons for the next meeting.

## **14. MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the Summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to extend the time limit for speeches;
- (i) to amend a motion;
- (j) to proceed to the next business;
- (k) that the question be now put;

## Part 4 - Rules of Procedure

- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) to suspend a particular Council procedure rule;
- (o) to exclude the public and press in accordance with the Access to Information Rules
- (p) to not hear further a Member named under Rule 22.03 or to exclude them from the meeting under Rule 22.04; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

### 15. RULES OF DEBATE

#### 15.01 Motions and Amendments

A motion or amendment shall not be discussed unless it has been proposed and seconded and, unless notice has already been given in accordance with Rule 13, it has been put into writing and handed to the Chair before it is further discussed or put to the meeting. Provided that an amendment to Committee minutes shall be moved only after questions under Rule 12.05 have been answered and before Members speak to the minutes.

In respect of Minutes of a Committee which are before the Council for consideration and which contain resolutions which have been taken under delegated powers, a Councillor may move that a particular Minute is referred back to the Committee for further consideration, provided that any resolution referred to in the Minutes has not already been implemented, and further provided that subsequent debate on the referral back be in accordance with these rules for debate at Council.

#### 15.02 Seconded's Speech

A Member when seconding a motion or amendment may, when doing so, state an intention to reserve the seconding speech until a later period of the debate.

#### 15.03 Only One Member to Stand at a Time

A Member shall rise and speak only when called upon so to do by the Chair. While a Member is speaking the other Members shall remain seated unless rising to a point of order or in personal explanation.

#### 15.04 Content and Length of Speeches and Questions

Speeches of Members or questions shall be directed to the matter under discussion or to a personal explanation or to a point of order. No speech or question shall exceed three minutes in length except

- (i) with the consent of the Council
- (ii) the proposer and seconder of a motion or amendment (limited to five minutes)
- (iii) the mover of a motion or the response by an opposition group leader regarding the annual budget statement or the annual work programme (no time limit).
- (iv) other speeches regarding the annual budget statement or the annual work programme (limited to five minutes)

#### 15.05 When a Member May Speak Again

A Member who has spoken on any motion (save only to ask a question or questions) shall not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;
- (b) if the motion has been amended since they last spoke, to move a further amendment;
- (c) if the Member's first speech was on an amendment moved by another Member, to speak on the main issue, whether or not the amendment on which they spoke was carried;

## Part 4 - Rules of Procedure

- (d) in exercise of a right of reply given by paragraph (15.11) or (15.13);
- (e) on a point of order;
- (f) by way of personal explanation.

### 15.06 Amendments to Motions

An amendment shall be relevant to the motion and shall be either:

- (a) to refer a subject of debate to the Cabinet or a Committee for consideration or reconsideration; or
- (b) to leave out words; or
- (c) to leave out words and insert or add others; or
- (d) to insert or add words;

but an amendment shall not have the effect of negating the motion before Council by being directly contradictory, or contrary to it, or by introducing a new motion. Where some parts of an amendment are negatory and others are not, provided that the spirit of the motion has not been changed by the deletion of the negatory element of the amendment, the remainder of the amendment shall be allowed to stand.

Amendments to Motions on Notice shall be given in writing, signed by the Member proposing the amendment (or alternatively by electronic form, provided that the Head of Paid Service is satisfied with proof of identity), and delivered, by noon on the day of the relevant Council meeting, to the Head of Paid Service who will circulate all amendments received to Group Leaders no later than 3.00pm the same day.

### 15.07 Amendments to be Dealt with Singly

Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of.

Provided that the Chair may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Council's business.

### 15.08 Effect of Amendment if Carried or Lost

If an amendment be lost, other amendments may be moved on the original motion, provided that no amendment shall be moved which is of the same, or substantially similar effect, to the amendment which has been lost. If an amendment be carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved, provided such further amendment is not inconsistent, or incompatible, with the alteration of the original motion made by the amendment which has been carried.

### 15.09 Alteration of Motion

A Member may with the consent of the Council signify without discussion:

- (a) alteration of a motion of which they have given notice; or
- (b) with the further consent of the seconder alter a motion which the Member has moved;

if (in either case) the alteration is one which could be made as an amendment thereto.

### 15.10 Withdrawal of Motion

A motion or amendment may be withdrawn by the mover with the consent of the Member's seconder and of the Council, which shall be signified without discussion and no Member may speak upon it after the mover has asked permission for its withdrawal, unless such permission shall have been refused.

## Part 4 - Rules of Procedure

### 15.11 Right of Reply

The mover of a motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall also have a right of reply at the close of the debate on the amendment, and shall not otherwise speak on the amendment. The mover of the amendment shall have no right of reply to the debate on the amendment which has been moved.

### 15.12 Motions which may be Moved During Debate

When a motion is under debate no other motion shall be moved except the following:

- (a) to amend the motion under Rule 15.06;
- (b) to proceed to next business under Rule 15.13(a) below;
- (c) that the question be now put under Rule 15.13(b) below;
- (d) to adjourn the debate or the meeting under Rule 15.13(c) below;
- (e) that the Member named be not further heard on the particular amendment or motion or at the meeting under Rule 22.03;
- (f) by the Chair that a Member do leave the meeting either generally or during consideration of the amendment or Motion before the meeting under Rule 22.04;
- (g) a motion under Section 100A(4) of the Local Government Act 1972, as amended, to exclude the public.

### 15.13 Closure Motions

A Member may move without comment at the conclusion of a speech of another Member, 'That the Council proceed to the next business', 'That the question be now put', 'That the debate be now adjourned', or 'that the Council do now adjourn', on the seconding of which the Chair shall proceed as follows:

- (a) on a motion to proceed to next business: unless in the Chair's opinion the matter before the meeting has been insufficiently discussed, the Chair shall first give the mover of the original motion a right of reply, and then put to the vote the Motion to proceed to next business (no vote on the issue under debate);
- (b) on a motion that the question be now put: unless in the Chair's opinion the matter before the meeting has been insufficiently discussed, the Chair shall first put to the vote the motion that the question be now put, and if it is passed then give the mover of the original motion his right of reply under paragraph 11 of this Rule before putting that Member's motion to the vote;
- (c) on a motion to adjourn the debate or the meeting: if in the Chair's opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion the Chair shall put the adjournment motion to the vote without giving the mover of the original motion a right of reply on that occasion. The meeting shall stand adjourned until recalled under the Constitution.

### 15.14 Points of Order or Personal Explanation

A Member may, with the consent of the Chair, rise on a point of order or in personal explanation, and shall be entitled to be heard forthwith. A point of order shall relate only to an alleged breach of these Rules or statutory provisions and the Member shall specify the Rule or statutory provision and the way in which it is considered it has been broken. A personal explanation shall be confined to correcting an incorrect statement about themselves or about what the Member has or is reported to have said.

### 15.15 Chair's Ruling on Point of Order or Explanation to be Final

The ruling of Chair on a point of order or on the admissibility of a personal explanation shall be final and not open to question.

### 15.16 Respect for Chair



## Part 4 - Rules of Procedure

Whenever the Chair rises during a debate a Member or Members then standing shall resume their seat(s) and the Council shall be silent.

### 15.17 Powers of Chair

At the Chair's discretion, such steps shall be taken as is considered necessary to ensure the proper and orderly conduct of the meeting and the efficient dispatch of business without infringing Members' democratic rights or freedom of speech.

## 16. PREVIOUS DECISIONS AND MOTIONS

### 16.01 Motion to Rescind a Previous Decision

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

### 16.02 Motion similar to one previously rejected

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

## 17. URGENT ITEMS

Where there is a need to consider items of urgent business which are not specified in the summons to meeting, the Member or Officer wishing to raise the same shall before the commencement of the meeting discuss the matter with the Mayor, the Group Leaders, the Head of Paid Service and the Monitoring Officer and the Mayor's decision as to whether to consider the item shall be conclusive.

## 18. VOTING

### 18.01 Majority

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

### 18.02 Chair's Casting Vote

If there are equal numbers of votes for and against, the Chair will have a second or casting vote.

### 18.03 Show of Hands

Unless a recorded vote is demanded under Rule 18.04, the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### 18.04 Recorded Vote

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

### 18.05 Recorded Votes at Budget Council Meetings

A recorded vote shall take place when the Council makes a calculation of the budget requirement or issues a Council tax precept under relevant sections of the Local Government Finance Act 1992. Such a vote shall be undertaken in accordance with Procedure Rule 18.04.

## Part 4 - Rules of Procedure

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### **18.06 Right to Require Individual Vote to be Recorded**

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

### **18.07 Voting on Appointments**

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

## Part 4 - Rules of Procedure

### 19. MINUTES

#### 19.01 Signing the Minutes

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

#### 19.02 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

The business transacted at an extraordinary meeting is restricted to the purpose for which the meeting has been called (Rule 3.01 above). An extraordinary meeting is not, therefore, a suitable meeting for the purposes of Rule 19.01 and the signing of the minutes of the preceding meeting will be deferred to the following suitable meeting.

#### 19.03 Form of Minutes

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

#### 19.04 No Protest Recorded in Minutes

No protest or expression of dissent shall be entered in the Minutes of the Council.

### 20. RECORD OF ATTENDANCE

The Policy and Governance Manager will record the names of all Members present during the whole or part of a meeting on the attendance sheets to assist with the record of attendance.

### 21. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 24 (Disturbance by Public).

### 22. MEMBERS' CONDUCT

#### 22.01 Standing to Speak

When a Member speaks at Full Council they must stand and address the meeting through the Chair. If more than one Member stands, the Chair will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

#### 22.02 Chair Standing

Whenever the Chair rises during a debate a Member or Members then standing shall resume their seat(s) and the Council shall be silent.

#### 22.03 Member not to be Heard Further

If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

#### 22.04 Member to Leave the Meeting

If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

#### 22.05 General Disturbance

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he/she thinks necessary.

### 23. DECLARATIONS OF INTEREST

## Part 4 - Rules of Procedure

### 23.01 Disclosable Pecuniary Interests

~~Where a Member has a Disclosable Pecuniary Interest as defined by Regulations under the Localism Act 2011, they will be required to declare that interest and remove themselves to the public gallery during discussion and voting on the item in which they have a Disclosable Pecuniary Interest. The Chair of any meeting at which such an interest is disclosed shall have discretion to exclude the Member from the meeting during the discussion and voting on the item in which the Member has a Disclosable Pecuniary Interest if the Member's behaviour is considered by the Chair to be having an undue influence on or attempting to put pressure on the Members voting on that item. A Member must withdraw from a meeting (including from the public area/gallery) during the whole of the consideration of any item of business in which the Member has a Disclosable Pecuniary Interest, or in which a Member has an 'other' interest as described in paragraph 20 of the Councillor Code of Conduct unless the Member is permitted to remain through the granting of a dispensation.~~

### ~~23.02 Other Interests~~

~~Where a Member has a Pecuniary Interest (other than a Disclosable Pecuniary Interest), or a Personal Interest, both as defined in the Council's Code of Conduct, they are required to disclose the existence and nature of the Pecuniary or Personal Interest, at any meeting where the interest is relevant.~~

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## 24. DISTURBANCE BY PUBLIC

### 24.01 Removal of a Member of the Public

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

### 24.02 Clearance of Part of Meeting Room

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

## 25. RECORDINGS OF MEETINGS

25.01 The Council supports the principles of openness and transparency and allows filming and recording at its meetings that are open to the public. These arrangements will operate in accordance with the a protocol agreed by the Council and which is set out in Part 5 of the Constitution.

## 26. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

### 26.01 Suspension

All of these Council Rules of Procedure except Rule 18.02 and 18.04 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting or for that part of the meeting identified in the motion.

### 26.02 Amendment

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

## 27. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Rules of Procedure apply to meetings of Full Council. Only Rules 5-11, 14, 18-26 (but not Rule 22.01) apply to meetings of the Cabinet, Committees, Sub-Committees, Forums and Working Parties.

## Part 4 - Rules of Procedure

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**Rule 12 also applies to meetings of the Cabinet, with a reduced period of fifteen minutes set aside.**

## Part 4 - Rules of Procedure

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### **28. ORDER OF SENIORITY OF MEMBERS**

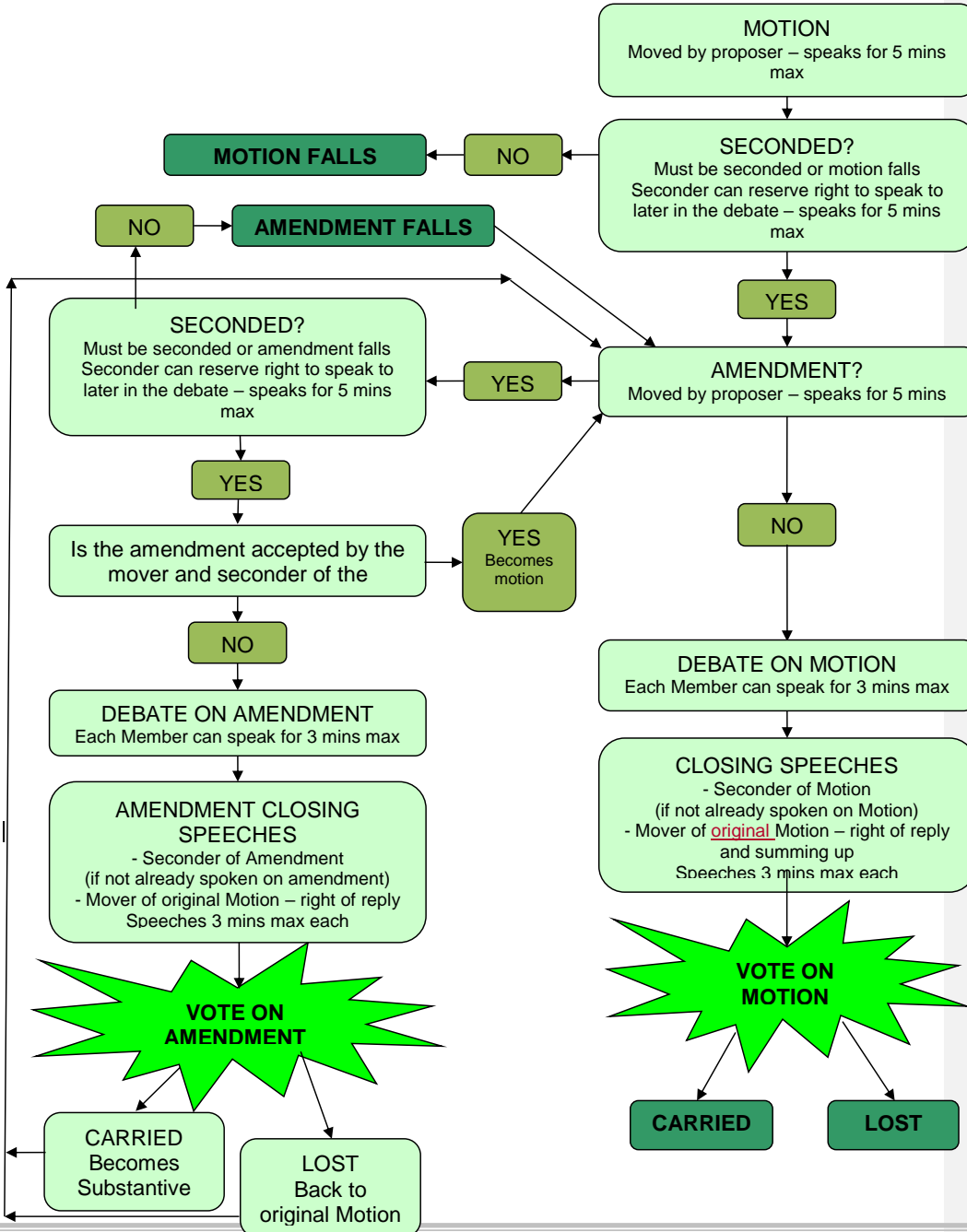
**28.01** Members of the Council shall rank in order of seniority as follows:

- The Mayor
- The Sheriff and Deputy Mayor
- The Leader of the Council
- The Deputy Leader of the Council
- Cabinet Members (in alphabetical order)
- The Leaders of political groups

Thereafter according to the length of service with the Council (those with the same length of service being ranked in alphabetical order).

## Part 4 - Rules of Procedure

### Council Debate Flowchart

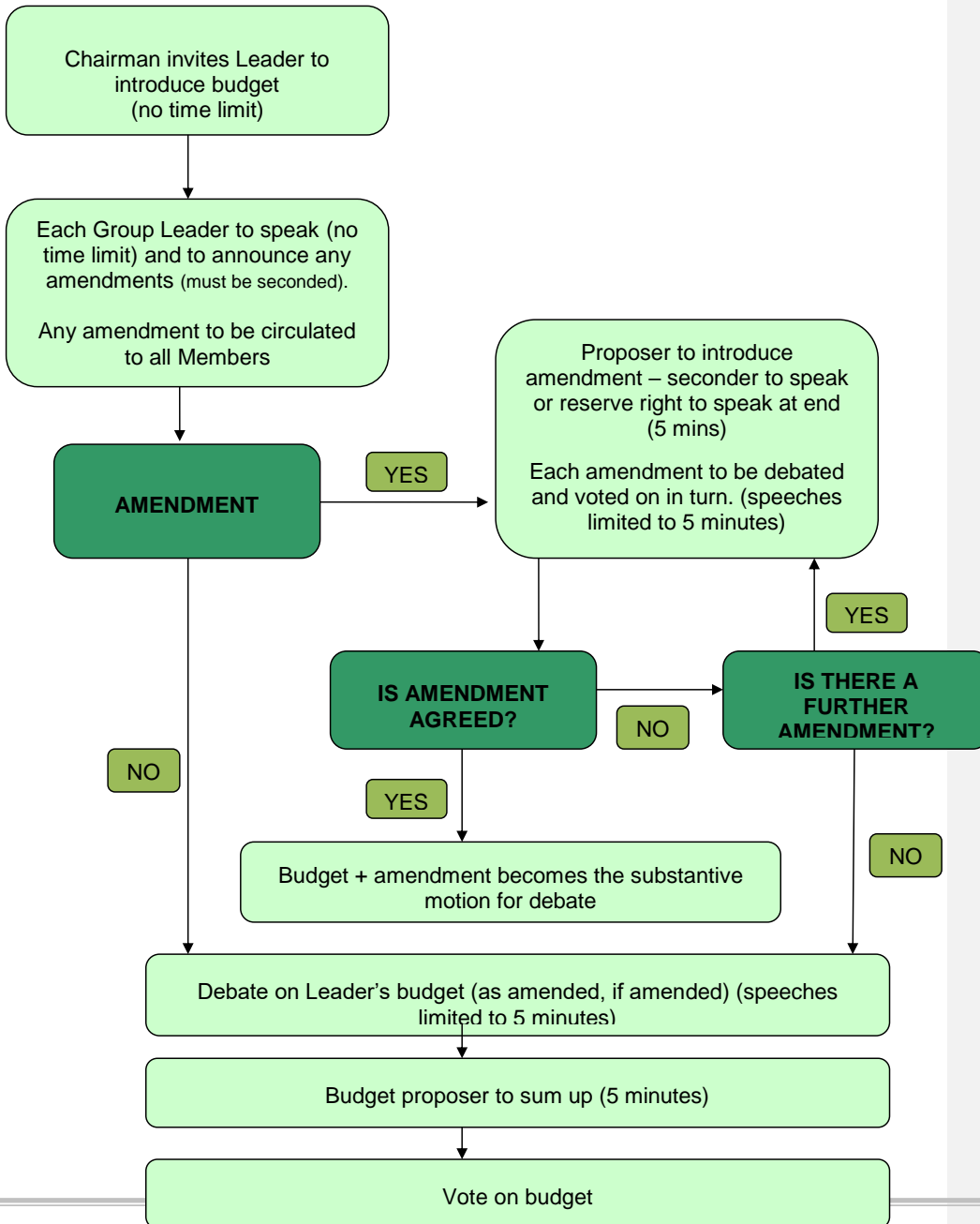


23 May 2016

Rules of Procedure  
Part 4 - 18

## Part 4 - Rules of Procedure

### Council Budget Flowchart



23 May 2016

Rules of Procedure  
Part 4 - 19



## Part 4 - Rules of Procedure

### BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

#### 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 the Council's web site, in the 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 the 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 its 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 Cabinet's response.
- (c) Once the Cabinet has approved the firm proposals, the Head of Paid Service 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 Head of Paid Service in writing within five days that he/she objects to the decision becoming effective and provides reasons why.
- (h) In that case, the Head of Paid Service 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.
- (i) The decision shall then be made public in accordance with Access to Information Procedure Rules, and shall be implemented immediately.

## Part 4 - Rules of Procedure

- (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 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 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 Head of Paid Service and/or the S151 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 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 the 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's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the 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 Cabinet Member or officers, Area Committees or joint arrangements discharging Cabinet functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;

## Part 4 - Rules of Procedure

- (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 Head of Paid Service and/or S151 Officer
- (b) In respect of functions which are the responsibility of the Cabinet, the Head of Paid Service'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 Head of Paid Service's report and to prepare a report to Council in the event that the Head of Paid Service concludes that the decision was a departure, and to the Overview and Scrutiny Committee if the Head of Paid Service concludes 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 Head of Paid Service 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 Head of Paid Service. 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 the Head of Paid Service.

## Part 4 - Rules of Procedure

### FINANCIAL REGULATIONS

#### Status of Financial Regulations

Introduction .....	22
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#### Financial Regulation : Financial Management and Control

Introduction .....	22
Council .....	22
Cabinet .....	23
Committees of the Council .....	23
The Statutory Officers .....	23
Other Financial Accountabilities .....	26

#### Financial Regulation : Financial Planning

Introduction .....	27
Policy Framework .....	27
Preparation of the Three Year Money Plan .....	27
Budgeting .....	27
Revenue Budget Monitoring and Control .....	28
Preparation and Monitoring of the Capital Programme and Prudential Indicators .....	28
Maintenance of Reserves and Provisions .....	28

#### Financial Regulation : Audit and Control of Resources

Introduction .....	28
Audit Requirements .....	28
Preventing Fraud and Corruption .....	29
Assets .....	29
Treasury Management .....	29
Staffing .....	30

#### Financial Regulation : Systems and Procedures

Introduction .....	30
Income and Expenditure .....	30
Payments to Employees and Members .....	30
Taxation .....	31
Trading Accounts and Business Units .....	31
Leasing .....	31
Banking .....	31

#### Financial Regulation : External Arrangements

Introduction .....	31
Partnerships .....	31
External Funding .....	31

#### APPENDICES

##### Appendix A – Financial Management and Control

Financial Management Standards .....	32
Managing and Controlling Spending .....	32
Scheme of Virement .....	34
Treatment of Year End Balances .....	35

## Part 4 - Rules of Procedure

Accounting Policies .....	35
Accounting Records and Returns .....	36
<b>Appendix B – Financial Planning</b>	
Resource Allocation .....	38
Capital Programme .....	38
Preparing Revenue Budgets and Three Year Money Planning .....	40
Use of Reserves .....	41
<b>Appendix C – Audit and Control of Resources</b>	
Internal Audit Requirements .....	42
External Audit Requirements .....	43
Preventing Financial Irregularities .....	44
Resources: Land, Buildings, Plant and Machinery .....	45
Asset Disposal .....	47
Insurance .....	47
Treasury Management and Banking .....	48
Investments and Borrowing .....	48
Staffing .....	49
<b>Appendix D – Systems and Procedures</b>	
Systems and Procedures : General .....	51
Income .....	52
Payments to Employees and Members .....	53
Ordering and Paying for Work, Goods and Services .....	55
Taxation .....	58
<b>Appendix E – External Arrangements</b>	
Partnerships .....	59
External Funding .....	60
Work for Third Parties .....	60
<b>Appendix F – Scheme of Virement</b>	62

## Part 4 - Rules of Procedure

### 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. The Cabinet, Corporate Directors and Senior Management Team (SMT) 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 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 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 the Audit, Risk and Assurance Manager.

### 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 such policy statements on financial matters as they may determine, which shall supplement these Financial Rules. These policies provide 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 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 responsible for approving and monitoring compliance with the Council's overall framework of

## Part 4 - Rules of Procedure

accountability and control as set out in the Constitution. Council is also responsible for monitoring compliance with 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. The Overview and Scrutiny Committee 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

- 2.9 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 Managing Director)

- 2.10 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 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 its functions is coordinated and for the organisation, appointment and proper management of the Council staff.

#### Monitoring Officer

## Part 4 - Rules of Procedure

2.11 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

Such report shall be considered within 21 days of circulation of the report to Members, and 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 S151 Officer.

2.12 Section 5 of the Local Government and Housing Act 1989 requires:

- (i) the Council to provide such staff, accommodation and other resources as the Monitoring Officer considers necessary to carry out his/her duties; and
- (ii) the Monitoring Officer to appoint a Deputy.

### S151 Officer

2.13 The 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 2011
- The Accounts and Audit (Amendment) (England) Regulations 2006
- The Local Authority (Capital Finance and Accounting) (England) Regulations 2003

2.14 The S151 Officer is responsible for:

- the proper administration of the Council's financial affairs;
- setting and monitoring compliance with financial management standards;
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- providing timely financial information;
- preparing the revenue Budget and capital programme;
- treasury management;
- all arrangements with the Council's bankers.

2.15 Section 114 of the Local Government Finance Act 1988 requires the S151 Officer to report to Council, Cabinet and the external auditor if the Council or one of its officers:

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

2.16 Section 114 of the 1988 Act also requires:

- the S151 Officer to nominate a properly qualified member of staff to deputise should they be unable to perform the duties under Section 114 personally; and



## Part 4 - Rules of Procedure

- the Council to provide the S151 Officer with sufficient staff, accommodation and other resources, including legal advice where this is necessary to carry out the duties under Section 114.
- 2.17 The Head of Paid Service, S151 Officer, Monitoring Officer and Audit, Risk and Assurance Manager shall hold regular Corporate Governance meetings to ensure the legal and corporate governance regime is working effectively and efficiently. At these regular meetings the Officers will consider matters concerning partnership and shared services.

### Corporate Directors

2.18 Corporate Directors are responsible for:

- ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the S151 Officer
  - signing contracts depending on value (see Contracts Standing Orders) on behalf of the Council.
- 2.19 It is the responsibility of Corporate Directors to consult with the S151 Officer and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred, and the Council Solicitor before the Council is legally committed to any course of action.

### **Other financial accountabilities in relation to:**

#### Virement

- 2.20 Council is responsible for agreeing procedures for virement of expenditure between Budget headings. Cabinet is responsible for the Council's virement policy statement and strategy for approval by Council and for reviewing compliance with the virement policy.
- 2.21 Corporate Directors are responsible for agreeing in-year virements within delegated limits, with the agreement of the S151 Officer. All requests for virement are subject to the validation of the S151 Officer in accordance with the virement policy.

#### Accounting policies

- 2.22 The S151 Officer is responsible for setting accounting policies and ensuring that they are applied consistently, in accordance with relevant guidance and regulations.

#### Accounting records and returns

- 2.23 The S151 Officer is responsible for determining the accounting procedures and records for the Council, in accordance with relevant guidance and regulations.

#### The annual statement of accounts

- 2.24 The S151 Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (SORP) (CIPFA/LASAAC). Council is responsible for approving the annual statement of accounts.

### **3. FINANCIAL REGULATION: FINANCIAL PLANNING**

#### **Introduction**

- 3.1 The key elements of financial planning are:
- Three year Money Plan -Revenue and Capital
  - Revenue Budget
  - Capital Programme
  - Treasury Management
  - Cashflow planning and balances management
  - Prudential Indicators for forward capital planning

## Part 4 - Rules of Procedure

### Policy Framework

- 3.2 Council is responsible for approving the Council Plan and Budget, which will be proposed by Cabinet.
- 3.3 Council is also responsible for approving procedures for agreeing variations to approved Budgets, plans and strategies.
- 3.4 Council is responsible for setting the level at which Cabinet may reallocate Budget funds from one service to another. Cabinet is responsible for taking in year decisions on resources and priorities in order to deliver the Budget and Council Plan within the financial limits set by Council.
- 3.5 Council is responsible for setting prudential indicators when it approves the revenue budget for Council Tax setting purposes.

### Preparation of the Three Year Money Plan

- 3.6 The S151 Officer is responsible for proposing the annual Three Year Money Plan prepared on a three year basis to Cabinet for consideration before its submission to Council for approval.
- 3.7 Cabinet is responsible for issuing guidance on the content of the annual Budget, taking account of the Community Strategy, Corporate Plan, Key Decisions and Statutory Duties and Requirements and the approved medium term capital programme.
- 3.8 The S151 Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's Priorities.

### Budgeting

- 3.9 The draft budget should integrate capital and revenue planning and should include allocation to different services and projects, proposed taxation levels, calculated mandatory prudential indicators; contingencies, and use of reserves.
- 3.10 It is the responsibility of Corporate Directors to prepare annual service estimates and submit these to the S151 Officer for subsequent validation, consolidation and presentation to Cabinet.
- 3.11 The S151 Officer is responsible for ensuring that an annual revenue budget is prepared for consideration by Cabinet, before submission to Council as part of the process leading to the setting of the Council Tax. Council may amend the Budget or ask Cabinet to reconsider it before approving it.
- 3.12 The S151 Officer issues guidelines on budget preparation to Members and Corporate Directors. The guidelines will take account of:
- legal requirements (in conjunction, where appropriate, with the Council Solicitor)
  - the Three Year Money Plan
  - available resources (including the use of internal reserves and provisions)
  - spending pressures
  - best value and other relevant government guidelines
  - other internal policy documents

### Revenue budget monitoring and control

- 3.13 The S151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. Expenditure will be monitored against budget and the overall position reported to Cabinet on a regular basis. The Head of Paid Service, Corporate Directors and the S151 Officer are responsible for ensuring that budgetary control is properly exercised and for taking appropriate action to ensure that budgets are not exceeded.
- 3.14 It is the responsibility of budget managers to control income and expenditure within their area and to monitor performance, through the Council's budget monitoring process approved by

## Part 4 - Rules of Procedure

the S151 Officer. They should also take any action necessary to avoid exceeding their budget allocation and alert the S151 Officer to any problems.

### **Preparation and monitoring of the capital programme and prudential indicators**

- 3.15 The S151 Officer is responsible for ensuring that the capital programme is prepared on an annual basis for consideration by Cabinet before submission to Council. All schemes to be included in the Capital Programme must have been evaluated and approved by the S151 Officer, or a nominated representative. The S151 Officer is responsible for assessing potential capital programme resources for the ensuing three financial years and preparing a rolling programme of expenditure for approval by Cabinet.
- 3.16 The S151 Officer will carry out monthly capital budget monitoring and consider the effect of any changes to the programme on the prudential indicators. Any such changes will be reported as soon as possible to Cabinet and Council.

### **Maintenance of reserves and provisions**

- 3.17 It is the S151 Officer's responsibility to advise Cabinet and/or Council on prudent levels of reserves and provisions for the Council, in accordance with CIPFA guidelines.

## **4. FINANCIAL REGULATION: AUDIT AND CONTROL OF RESOURCES**

### **Introduction**

- 4.1 It is essential that robust systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

### **Audit requirements**

- 4.2 The Accounts and Audit Regulations 2011 require every local authority to maintain an adequate and effective internal audit function. The S151 Officer shall arrange for compliance with these regulations and CIPFA/SOLACE guidance on Corporate Governance and Risk Management.
- 4.3 Internal Audit shall have 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.
- 4.4 The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by Section 5 of the Audit Commission Act 1998.
- 4.5 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have Statutory rights of access.

### **Preventing fraud and corruption**

- 4.6 The Head of Policy & Resources is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

### **Assets**

## Part 4 - Rules of Procedure

- 4.7 Corporate Directors should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

### Treasury Management

- 4.8 The Council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 4.9 Council is responsible for approving the treasury management policy statement setting out the matters detailed in paragraph 15 of CIPFA's Code of Practice for Treasury Management in Local Authorities. The Cabinet proposes the policy statement to Council for approval. The S151 Officer has been delegated responsibility for implementing and monitoring the statement.
- 4.10 All money under the control of the Council is managed by the officer designated for the purposes of S151 of the Local Government Act 1972, referred to in the Code as the S151 Officer.
- 4.11 The S151 Officer is responsible for reporting to Cabinet (for information) and Council for decision a proposed treasury management strategy for the coming financial year at or before the start of each financial year.
- 4.12 All Executive decisions on borrowing, investment or financing shall be delegated to the S151 Officer, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 4.13 The S151 Officer is responsible for reporting to Cabinet not less than twice in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.

### Staffing

- 4.14 The Council is responsible for determining the overall level of officer support for Executive and non-Executive functions and will also approve the staffing establishment.
- 4.15 The Head of Paid Service is responsible for providing overall management of staff and for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- 4.16 Corporate Directors are responsible for controlling total staff numbers by:
- advising Cabinet on the budget necessary in any given year to cover estimated staffing levels;
  - adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within the approved establishment in order to meet changing operational needs;
  - the proper use of recruitment and selection procedures.
- 4.17 The Monitoring Officer can require the Council to provide such staff as he/she considers necessary to carry out the role.

## 5. FINANCIAL REGULATION: SYSTEMS AND PROCEDURES

### Introduction

- 5.1 Sound systems and procedures are essential to an effective framework of accountability and control.

## Part 4 - Rules of Procedure

- 5.2 The S151 Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Corporate Directors may not make changes to the existing financial systems or establish new systems without the approval of the S151 Officer. However, Corporate Directors are responsible for the proper operation of financial processes in their own departments.
- 5.3 Any new system for maintaining financial records, or for the recording of assets, or changes to such systems, are discussed with the Audit, Risk and Assurance Manager, prior to implementation.
- 5.4 Corporate Directors should ensure that their staff receive relevant financial training.
- 5.5 Corporate Directors must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation (see Head of Policy & Resources delegations). Corporate Directors must ensure that staff are aware of their responsibilities under this and all other legislation.

### **Income and expenditure**

- 5.6 It is the responsibility of Corporate Directors to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on their behalf, or on behalf of the Cabinet or Council, in respect of payments, income collection and placing orders, together with the limits of their authority. The S151 Officer is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control. The S151 Officer will periodically report debt write off to the Cabinet.

### **Payments to employees and Members**

- 5.7 The S151 Officer is responsible for payments of salaries and wages to all staff, including payments for overtime and allowances, and for payment of allowances to Members.

### **Taxation**

- 5.8 The S151 Officer is responsible for advising Corporate Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
- 5.9 The S151 Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- 5.10 Responsibility for the Council's tax returns connected with payments to employees and Members rests with the S151 Officer.

### **Trading accounts and business units**

- 5.11 The S151 Officer will advise on the establishment and operation of trading accounts and business units.

### **Leasing**

- 5.12 All finance leases entered into by the Council can only be on the authority of the Head of Paid Service, S151 Officer, and the Council Solicitor.

### **Banking**

- 5.13 All cheques and payment forms shall be ordered only on the authority of the S151 Officer and proper arrangements for their safe custody will be made.
- 5.14 Cheques on the Council's banking accounts shall bear the facsimile signature of the Head of Policy & Resources.

## **6. FINANCIAL REGULATION: EXTERNAL ARRANGEMENTS**

## Part 4 - Rules of Procedure

### Introduction

- 6.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

### Partnerships

- 6.2 Cabinet is responsible for approving delegations, including frameworks for partnerships. Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 6.3 Cabinet can delegate functions, including those relating to partnerships, to officers. These are set out in the scheme of delegation that forms part of the Council's Constitution. Where functions are delegated, the Cabinet remains accountable for them to Council.
- 6.4 The Monitoring Officer and S151 Officer are responsible for promoting and maintaining the same high standards of conduct with regard to conduct and financial administration in partnerships that apply throughout the Council.
- 6.5 The S151 Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory.
- 6.6 The Council Solicitor and S151 Officer must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies and must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 6.7 Corporate Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

### External funding

- 6.8 The S151 Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

## Part 4 - Rules of Procedure

### APPENDIX A: FINANCIAL MANAGEMENT AND CONTROL

#### A1 Financial Management Standards

##### A1.1 Why is this important?

All 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 everyone 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:

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

##### A1.3 Responsibilities of the S151 Officer

- To ensure the proper administration of the financial affairs of the Council.
- To set the financial management standards, and 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, Heads of Service and Service Managers

- To promote the financial management standards set by the S151 Officer 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 for calling 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 does not overspend, each service is required to manage its own expenditure within the cash limited budget allocated to it.

For the purposes of budgetary control by managers, a budget head will normally be a cost centre. However, it may be at a more detailed level in the standard coding structure if required.

## Part 4 - Rules of Procedure

### A2.2 Key controls

The key controls for managing and controlling the revenue budget are:

- budget holders should be responsible only for income and expenditure which they can influence;
- each "£" of budgeted expenditure is allocated to a named budget holder;
- budget holders accept accountability for their budgets and the level of service to be delivered;
- all orders committing expenditure should be properly authorised and priced before issue;
- budget holders follow an approved certification process for all expenditure;
- income and expenditure is properly recorded and accounted for;
- performance levels/levels of service are monitored in conjunction with the budget and necessary action taken to align service outputs and budget.

### A2.3 Responsibilities of the S151 Officer

These responsibilities are carried out through dedicated finance officers reporting to the S151 Officer. To establish an appropriate framework of budgetary management and control which ensures that:

- budget management is exercised within the annual cash limits agreed by Council;
- each Corporate Director, Head of Service and Service Manager has available timely information on income and expenditure on each budget heading, to enable budget holders to fulfill their budgetary responsibilities;
- expenditure is committed only against an approved budget head containing adequate budgetary provision;
- all officers responsible for committing expenditure shall comply with relevant guidance, including Financial Regulations and Contract Standing Orders;
- each budget head has a single named Manager, determined by the Head of Service / Service Manager. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making which commits expenditure;
- significant variances from approved budgets are investigated and reported by managers regularly;
- procedures are in place for corrective action to be taken to manage significant variances.

To administer the Council's scheme of virement.

To submit reports to Cabinet where a Head of Service / Service Manager is unable to balance expenditure and resources within existing approved budgets under their control.

To prepare and submit regular budget monitoring reports on the Council's projected expenditure compared with the budget.

### A2.4 Responsibilities of Corporate Directors, Heads of Service and Service Managers

To maintain budgetary control and to ensure that all income and expenditure is properly recorded and accounted for.

To ensure that a single accountable budget holder is identified for each item of expenditure. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making which commits expenditure.

To ensure that spending remains within the service overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and, where it appears that areas of the budget are likely to be over or underspent, taking appropriate corrective action.

To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and that any necessary action is taken.



## Part 4 - Rules of Procedure

To advise the S151 Officer immediately where it is clear that they are unable to balance expenditure or income (when a loss of income arises) within existing approved budgets under their control.

To ensure prior approval by Council for new proposals. (A report on new proposals should explain the full financial implications, after consultation with the S151 Officer). Unless Council has agreed otherwise, Corporate Directors must plan to contain the financial implications of such proposals within their cash limit).

To ensure compliance with the Council's scheme of virement.

To consult with the relevant Corporate Director and the S151 Officer where it appears that a budget proposal, including a virement proposal, may impact materially on another service.

### **A3 Scheme of Virement** (See Appendix F)

#### **A3.1 Why is this important?**

The scheme of virement enables Corporate Directors to manage budgets with a degree of flexibility within the overall policy framework determined by Council.

#### **A3.2 Key Controls**

The scheme is administered by the S151 Officer within guidelines set by the Council. Any variation from this scheme requires the approval of the Head of Paid Service and the S151 Officer. Virement will only be used where there is a confirmed change to the spending plans agreed by Cabinet, it will not be used purely to offset budget variances.

Corporate Directors and budget holders are authorised to incur expenditure in accordance with the estimates agreed by Cabinet and approved by Council. Virement is a switching of resources between budget heads or capital schemes. For the purposes of these Rules a budget head is considered to be at an equivalent level to the standard service sub-division as defined by CIPFA. The scheme applies equally to a reduction in income as to an increase in expenditure.

Corporate Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. They should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Corporate Directors must plan to fund such commitments from within their own budgets.

#### **A3.3 Responsibilities of the S151 Officer**

To prepare jointly with the appropriate Corporate Director/Head of Service/Service Manager a report to the Cabinet Member where virements in excess of £50,000 are proposed.

#### **A3.4 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

A Corporate Director, Head of Service or Service Manager may exercise virement on budgets under their control for amounts up to and including £10,000 on any one budget head during the year.

Virements within a policy area of greater than £10,000 but less than £50,000 require the approval of the S151 Officer. Where the amount is greater than £50,000 but below £100,000 the virement requires the prior approval of the Cabinet Member for Performance and Resources.

The prior approval of Cabinet is required to any virement where it is proposed to vire between budgets managed by different Corporate Directors.

Virement which is likely to impact on the level of service activity of another Service should be implemented only after consultation with the relevant Head of Service.

No virement relating to a specific financial year will be made after 31 March in that year.

## Part 4 - Rules of Procedure

### A4 Treatment of Year End Balances

#### A4.1 Why is this important?

The rules below cover arrangements for the transfer of resources between accounting years i.e. a 'carry forward'. Carry forwards will only be approved in the appropriate circumstances.

#### A4.2 Key controls

Appropriate accounting procedures are in operation to ensure that carried forward totals are agreed and correct.

Any under or overspend on revenue budgets will be written to General Fund revenue balances at the Financial Year end.

#### A4.3 Responsibilities of the S151 Officer

To report the extent of overspends and underspends on service estimates to Cabinet and to Council.

To report to Cabinet and to Council any proposed carry forwards for both revenue and capital and their effect upon the balances of the Council.

#### A4.4 Responsibilities of Corporate Directors, Heads of Service and Service Managers

Any request to carry forward underspends of either revenue or capital resources must have prior approval from the S151 Officer.

### A5 Accounting Policies

#### A5.1 Why is this important?

The S151 Officer is responsible for the preparation of the Council's statement of accounts in the format required by the CIPFA Code of Practice on Local Authority Accounting in Great Britain, for the financial year ending 31 March.

#### A5.2 Key controls

The key controls for accounting policies are:

- suitable accounting policies are selected and applied consistently;
- judgments are made and estimates prepared which are reasonable and prudent;
- statutory and other professional requirements are observed to maintain proper accounting records;
- all reasonable steps have been taken for the prevention and detection of fraud and other irregularities.

#### A5.3 Responsibilities of the S151 Officer

To adopt suitable accounting policies and to ensure that they are applied consistently. The accounting policies will be set out in the statement of accounts which is prepared at 31 March each year, and will cover such items as:

- separate accounts for capital and revenue transactions;
- the basis on which year end debtors and creditors are included in the accounts;
- details of provisions and reserves;
- fixed assets;
- depreciation;
- work in progress;

## Part 4 - Rules of Procedure

- stocks and stores;
- deferred charges;
- accounting for value added tax;
- government grants;
- leasing;
- pensions.

### **A5.4 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To adhere to the accounting policies approved by the S151 Officer.

## **A6 Accounting Records and Returns**

### **A6.1 Why is this important?**

Proper accounting records are one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This provides assurance that the accounts are properly prepared and proper accounting practices have been followed and that arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.

### **A6.2 Key controls**

The key controls for accounting records and returns are:

- all Cabinet Members, finance staff and budget managers operate within the required accounting standards of the Council;
- all the Council's transactions, material commitments and contracts and other essential accounting information have been recorded completely, accurately and on a timely basis;
- procedures are in place to enable accounting records to be reconstituted in the event of failure;
- balances and reconciliation procedures are carried out to ensure transactions are correctly recorded.

### **A6.3 Responsibilities of the S151 Officer**

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 Head of Service or Service 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 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.

## Part 4 - Rules of Procedure

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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.

To complete all statutory financial returns to government departments.

### **A6.4 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To consult with the Audit, Risk and Assurance Manager, and obtain the approval of the S151 Officer 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 S151 Officer.

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.

## Part 4 - Rules of Procedure

### 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 the S151 Officer

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, Heads of Service 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 S151 Officer;
- a scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project, for approval by the S151 Officer and the Cabinet Member for Performance and Resources;
- proposals for improvements and alterations to buildings must be approved by the S151 Officer;

## Part 4 - Rules of Procedure

- 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 the S151 Officer**

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 S151 Officer, having regard to Government rules and accounting requirements.

To obtain authorisation from Cabinet and/or Council 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 Cabinet Member for Performance and Resources, capital projects in excess of £50,000 for commencement.

### **B2.4 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To comply with guidance concerning capital schemes and controls issued by the S151 Officer.

To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the S151 Officer.

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 S151 Officer.

To prepare and submit monitoring reports, jointly with the S151 Officer, 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 S151 Officer, 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 no credit arrangements, such as leasing agreements, are entered into without the prior approval of the S151 Officer and, if applicable, approval of the scheme through the capital programme.

To consult with the S151 Officer and seek Cabinet approval where the Head of Service/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.

## Part 4 - Rules of Procedure

### B3 Preparing Revenue Budgets and Three Year Money Planning

#### B3.1 Why is this important?

The Council needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Council's plans and policies.

The revenue budget must be constructed so as to ensure that resource allocation properly reflects the spending plans and priorities of the Council. Budgets, are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent.

Three year medium term planning involves a planning cycle in which each manager develops their own plans. As each year passes, another future year will be added to the three year money plan. Medium term planning ensures that the Council is always preparing for events in advance.

#### B3.2 Key controls

The key controls for the preparation of revenue budgets and three year money planning are:

- Specific budget approval for all expenditure;
- Budget Managers accept accountability within delegations set by Cabinet for their budgets and the level of service to be delivered;
- A monitoring process is in place to regularly review the effectiveness and operation of budget preparation and that any corrective action is taken;
- Proper accounting practices and policies are adhered to.

#### B3.3 Responsibilities of the S151 Officer

To prepare and submit reports on budget prospects for Cabinet, including resource constraints set by the Government. Reports should take account of medium term prospects, where appropriate.

To determine the detailed form of revenue estimates, consistent with the general directions of the Council, after consultation with Cabinet, and Corporate Directors.

To prepare and submit reports to Cabinet on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of Council Tax to be levied.

To advise on the medium term implications of Government statements on public spending and distribution of central government resources.

To encourage best use of resources and value for money by working with Corporate Directors to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.

To advise Council on Cabinet proposals in accordance with their responsibilities under S151 of the Local Government Act 1972.

In consultation with the Corporate Directors and in accordance with the laid down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by Cabinet and Council.

To have regard to:

- spending patterns and pressures revealed through the budget monitoring process;
- legal requirements;
- policy requirements as defined by Council;
- initiatives already underway when drawing up draft budget requirements.

## Part 4 - Rules of Procedure

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### **B3.4 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To prepare estimates of potential revenue savings and growth requirements, in consultation with the S151 Officer, to be submitted to Cabinet.

To prepare budgets which are consistent with any relevant cash limits, with the Council's annual budget cycle and with guidelines issued by Cabinet. The format should be prescribed by the S151 Officer in accordance with Council's general directions.

To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.

To consult with the relevant Head of Service / Service Manager, where it appears that a budget proposal is likely to impact on another service.

### **B4 Use of Reserves**

#### **B4.1 Why is this important?**

Reserves are maintained as a matter of prudence.

#### **B4.2 Key controls**

To maintain reserves in accordance with the Code of Practice on Local Authority Accounting and agreed accounting policies.

#### **B4.3 Responsibilities of the S151 Officer**

To advise on prudent levels of reserves for the Council, and to act on the advice of external audit in this matter.



## Part 4 - Rules of Procedure

### APPENDIX C: AUDIT AND CONTROL OF RESOURCES

#### C1 Internal Audit Requirements

##### C1.1 Why is this important?

The S151 Officer 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 Audit, Risk and Assurance Manager, 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 the S151 Officer

The S151 Officer is responsible for 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 Audit, Risk and Assurance Manager

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 S151 Officer 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 One Legal and the Head of Paid Service will consider any disciplinary action in consultation with the appropriate 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.

##### C1.5 Responsibilities of Corporate Directors, Head of Service and Service Managers

## Part 4 - Rules of Procedure

To ensure that auditors are given access at all reasonable times to premises, personnel, documents and assets which the auditors consider necessary for the purposes of their work.

To ensure that auditors are provided promptly with any information and explanations which they seek in the course of their work.

To consider and respond promptly to recommendations in audit reports.

To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

To notify the S151 Officer and Audit, Risk and Assurance Manager, immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Corporate Director, Head of Service or Service Manager should take all necessary steps to prevent further loss and to secure records and documentation against removal, destruction or alteration.

### **C2 External Audit Requirements**

#### **C2.1 Why is this important?**

The Local Government Finance Act 1982 set up the Audit Commission for local authorities and police authorities in England and Wales, which is responsible for appointing external auditors to each local authority. The S151 Officer is responsible for working with the external auditor and for advising Council, Cabinet and Corporate Directors on their responsibilities in relation to external audit. The external auditor has the same rights of access as the internal auditor to all documents which are necessary for audit purposes.

The basic duties of the external auditor are governed by Section 15 of the 1982 Act, under which auditors need to satisfy themselves that:

- the accounts are prepared in accordance with rules made under Section 23 of the 1982 Act and comply with the requirements of all statutory provisions applicable to the accounts;
- proper practice has been observed in compilation of accounts;
- the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

The Council's accounts are scrutinised by external auditors, appointed by the Audit Commission, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the Council and its income and expenditure for the year in question and complies with the legal requirements.

#### **C2.2 Key controls**

External auditors are appointed by the Audit Commission normally for a minimum period of five years. The Audit Commission prepares guidelines which the external auditors follow when auditing the Council's statement of accounts.

#### **C2.3 Responsibilities of the S151 Officer**

To draw up the timetable and issue guidance for final accounts purposes and to advise staff and external auditors accordingly.

To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.

#### **C2.4 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

## Part 4 - Rules of Procedure

To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purpose of their work.

To ensure that all paperwork and systems are up-to-date and available for inspection.

### **C3 Preventing Financial Irregularities**

#### **C3.1 Why is this important?**

The Council will not tolerate fraud or corruption in the administration of its responsibilities whether from inside or outside the Council.

The Council's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) that it comes into contact with, will act towards the Council with integrity and in a manner free of fraud and corruption.

#### **C3.2 Key controls**

The key controls regarding the prevention of financial irregularities are that:

- the Council maintains sound internal control procedures in line with best accounting practice. In particular, there is a clear separation of duties in accounting routines evidenced by maintaining appropriate audit trail information;
- the culture and tone of the Council is one of honesty and opposition to fraud and corruption;
- all Members, staff and organisations associated with the Council will act with integrity and lead by example;
- managers are required to deal swiftly and firmly with those who defraud the Council or who are corrupt.

#### **C3.3 Responsibilities of the S151 Officer**

To maintain adequate and effective audit arrangements for the Council.

To ensure that financial irregularities are reported to the Head of Paid Service, Cabinet, Audit and Governance Committee, Audit, Risk and Assurance Manager and the Council Solicitor.

To determine the scope of any internal enquiries or investigations, subject to consultation with the appropriate Corporate Director and Council Solicitor.

To decide, in consultation with the appropriate Corporate Director and Council Solicitor, whether any matter under investigation should be referred for police investigation and take recovery action as appropriate on such matters.

To keep the Head of Paid Service and Council Solicitor informed if a suspected irregularity occurs involving staff who are the responsibility of the S151 Officer.

To ensure, in conjunction with the appropriate Head of Service / Service Manager, that the Council's disciplinary procedures are followed where the outcome of an audit or other investigation indicates fraud or irregularity.

#### **C3.4 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To ensure that all suspected irregularities are reported to the S151 Officer.

To instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

### **C4 Resources: Land, Buildings, Plant and Machinery**

## Part 4 - Rules of Procedure

### 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 the Head of Policy & 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 Head of Service or Service 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, Heads of Service 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 Head of Service / Service Manager, in consultation with the Head of Policy & Resources and the Council Solicitor, 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 Head of Policy & 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 Corporate Director, 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.

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

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

## Part 4 - Rules of Procedure

To consult the Head of Policy & 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 Head of Policy & 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 S151 Officer. 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 S151 Officer.

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 the Head of Policy & Resources**

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

#### **C4.6 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To maintain inventories in a form approved by the Head of Policy & 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 Head of Policy & 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, Head of Service or Service Manager concerned has given permission otherwise.

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

### **Stocks and Stores**

#### **C4.7 Responsibilities of the Head of Policy & 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, Heads of Service 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.

To authorise or write-off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and stores should be by competitive quotations or auction unless, following consultation with the S151 Officer.

## Part 4 - Rules of Procedure

To seek approval from the S151 Officer to the write-off of redundant stocks and stores valued in excess of £500 and report any such write offs to Cabinet.

### **C5 Asset Disposal**

#### **C5.1 Why is this important?**

It would be unsatisfactory and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and rules of the Council.

#### **C5.2 Key controls**

Assets are disposed of at the most appropriate time in accordance with Contract Standing Orders, and only when it is in the best interests of the Council, and that the best price is obtained. For items of significant value, disposal should be by competitive tender or public auction.

#### **C5.3 Responsibilities of the Head of Policy & Resources**

To advise on best practice for disposal of assets.

To ensure appropriate accounting entries are made.

#### **C5.4 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.

To ensure that income received for disposal of an asset is promptly and properly banked and coded.

### **C6 Insurance**

#### **C6.1 Why is this important?**

Insurance has been the traditional means of protecting against loss, but this cannot be seen as the complete answer. By reducing or even preventing the incidence of losses (whether they result from crime or accident), the Council will benefit from reduced costs of providing insurance cover and will also avoid the disruption and wasted time caused by losses and insurance claims.

#### **C6.2 Key controls**

Acceptable levels of retained risk are identified and evaluated and arrangements are in place for their funding, either by internal provision or external insurance as appropriate.

#### **C6.3 Responsibilities of the Head of Policy & Resources**

To determine and effect appropriate corporate insurance cover, through external insurance and/or internal funding.

To provide advice to Council and Cabinet on insurance matters.

To include all appropriate Council employees in a suitable fidelity guarantee insurance.

#### **C6.4 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To notify the Head of Policy & Resources promptly of all new or increased risks, properties or vehicles which require insurance and of any alterations affecting existing insurances.

To consult the Head of Policy & Resources and the Council Solicitor in respect of the terms of any indemnity which the Council is requested to give.

### **C7 Treasury Management and Banking**

## Part 4 - Rules of Procedure

### **C7.1 Why is this important?**

Many millions of pounds pass through the Council's books each year. A few Councils have suffered high profile losses through inappropriate treasury management procedures. This led to the establishment of Codes of Practice. These aim to provide assurances that the Council's money is properly managed in a way which balances risk with return, but with the overriding consideration being given to the security of the Council's capital sum.

The Council has adopted a Treasury Policy Statement based on the CIPFA Code of Practice for Treasury Management. All treasury management operations are carried out in accordance with this Statement and the Code.

### **C7.2 Responsibilities of the S151 Officer**

To arrange the borrowing and investment activities of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Council's Treasury Policy Statement.

To prepare an Annual Treasury Strategy, for the forthcoming financial year, for approval by Council prior to the start of that financial year, including the determination of statutory financing limits in accordance with Section 45 of the Local Government and Housing Act 1989. Subject to the foregoing, the S151 Officer is responsible for the management of the Council's loan debt and for the investment of surplus funds.

To manage, control and monitor the Council's banking arrangements, including the opening and closing of such bank accounts as are considered necessary within the terms of the overall banking arrangement. Opening or closing any bank account shall only be undertaken by, or with the approval of, the S151 Officer, or his nominated representative. The title of any such bank accounts shall include the words "Gloucester City Council".

Cheques, including National Giro payment forms, shall be ordered only on the authority of the S151 Officer, who shall make proper arrangements for their safe custody.

Cheques drawn on official bank accounts, including National Giro accounts, shall bear the facsimile signature of the S151 Officer.

### **C7.3 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To comply with financial rules relating to banking arrangements and to follow the guidance on banking issued from time to time by the S151 Officer.

To advise the S151 Officer of material amounts due to be credited or debited to the Council's bank accounts in order to enable efficient cash flow management.

## **C8 Investments and Borrowing**

### **C8.1 Responsibilities of the S151 Officer**

Ensure that all borrowings and investments are made in the name of the Council.

Ensure that all securities in support of investments which are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in accordance with arrangements approved by the S151 Officer.

To act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council. They may also authorise the premature repayment of individual bonds and mortgages.

All money temporarily uninvested, shall be aggregated for the purpose of treasury management and shall be under the control of the S151 Officer.

## Part 4 - Rules of Procedure

Unofficial or voluntary funds are, wherever possible, in the name of the Council. All officers acting as trustees by virtue of their official position shall deposit securities or similar documents relating to the trust with the S151 Officer unless the deed otherwise provides.

To arrange, where funds are held on behalf of third parties, for their secure administration and maintain written records of all transactions.

To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

### **C8.2 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To ensure that no loans are made to third parties and no interests are acquired in companies, joint ventures, or other enterprises without the approval of Council, following consultation with the S151 Officer.

To ensure that any unofficial or voluntary fund is declared to him/her by the controlling officer(s) and that annual accounts, audited by suitably qualified auditors, are submitted within a reasonable time after the end of each accounting period, to the body responsible for the management or control of each fund.

To ensure that all officers acting as trustees by virtue of their official position shall deposit securities or similar documents relating to the trust with the S151 Officer unless the deed otherwise provides.

To inform the S151 Officer of the names of all such funds and of their controlling officer(s) and managing body. Where the Corporate Director, Head of Service or Service Manager so requests, the S151 Officer shall advise on the suitability of the form of accounts and of the audit arrangements.

## **C9 Staffing**

### **C9.1 Why is this important?**

In order to provide the highest level of service, it is crucial that the Council recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level. An appropriate staffing strategy and policy should exist, in which staffing requirements and budget allocation should be matched.

### **C9.2 Key controls**

The key controls for staffing are:

- (a) that procedures are in place for forecasting staffing requirements and cost;
- (b) that procedures are in place for monitoring staffing expenditure against budget;
- (c) that controls are implemented that ensure that staff time is used efficiently and benefits the Council.

### **C9.3 Responsibilities of the S151 Officer**

To ensure that budget provision exists for all existing and new employees.

To act as an advisor to Corporate Directors on areas such as National Insurance, pension contributions as appropriate.

To ensure that an annual staffing budget is produced that is based upon the Council's agreed establishment.

### **C9.4 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

To ensure that the staffing budget is not exceeded and that it is managed to enable the agreed level of service to be provided within the Service's cash limit.



## Part 4 - Rules of Procedure

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Under no circumstances to appoint additional posts to the agreed Establishment without first seeking approval from the Head of Paid Service to increase the Establishment and agreeing the source of finance with the S151 Officer.

## Part 4 - Rules of Procedure

### 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 S151 Officer 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 the S151 Officer

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, Heads of Service 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 S151 Officer.

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 S151 Officer 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 S151 Officer and in consultation Council Solicitor in situations where it is considered that the Financial Regulations or Contract Standing Orders should be waived or a procurement exemption applied.

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.

## Part 4 - Rules of Procedure

To supply lists of authorised officers, with specimen signatures and delegated limits to the S151 Officer, together with any subsequent variations.

In consultation with 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 Senior Information Risk Officer 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 Head of Service / 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 the S151 Officer**

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 the Cabinet Member for 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.

#### **D2.4 Responsibilities of Corporate Directors, Heads of Service 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.

## Part 4 - Rules of Procedure

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 Council Solicitor.

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 until it can be banked, to safeguard against loss or theft 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 S151 Officer 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 S151 Officer any 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 S151 Officer when writing off any individual amounts in excess of £500 and amounts for an individual debtor that in total exceed £500.

To notify the S151 Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the S151 Officer.

### 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:

- 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.

## Part 4 - Rules of Procedure

- 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".

### D3.3 Responsibilities of the S151 Officer

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 S151 Officer.

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

### D3.4 Responsibilities of Corporate Directors, Heads of Service 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 S151 Officer of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the S151 Officer.

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 S151 Officer, 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 S151 Officer.

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 arrangements is achieved. Due consideration should be given to tax implications and the S151 Officer is informed where appropriate.

Claim forms submitted more than three months after the expenditure has been incurred shall only be paid on the approval of the S151 Officer.

To ensure that the details of any employee benefits in kind are notified to the S151 Officer to enable full and complete reporting within the Income Tax Self Assessment system.

## Part 4 - Rules of Procedure

To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the Document Retention Policy.

### D3.5 Responsibilities of Members

To submit claims for Members' travel and subsistence allowances on a monthly basis and, in any event, within one month of the year-end.

## D4 Ordering and Paying for Work, Goods and Services

### D4.1 Why is this important?

Public money should be spent with demonstrable probity and in accordance with the Council's policies. The Council's procedures should help to ensure that services can receive value for money in their purchasing arrangements. These procedures should be read in conjunction with the Council's Procurement Strategy and Contract Standing Orders.

It is imperative that budget managers keep a tight control over their budgets. Control starts with commitments placed against individual budgets in the form of Orders.

### D4.2 General

Every Member and officer of the Council has a responsibility to declare any links or personal interests which they may have with purchasers or suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council. The Monitoring Officer maintains a Register of Members' and Officers' Interests for this purpose.

Official orders must be in a form approved by the S151 Officer.

Official orders must be issued for ALL work, goods or services to be supplied to the Council with only the following exceptions:

- Bailiff and Recovery Agent Costs
- Utility bills (gas/electricity/water/oil/telephones and any other metered service)
- Approved petrol accounts
- Pre-paid postage
- Housing renovations grants (capital)
- Inland Revenue payments
- Officer and Member expenses/allowances
- Housing Benefit /Council Tax/Business Rates refunds or payments
- Commissions
- All payments to the Council
- Refunding overpaid fees to customers
- Rent Refunds
- Superannuation payments
- Treasury / banking charges
- Barrister's fees / Court fees / Solicitor's fees
- ECDL test
- Insurance premiums
- Rail warrants
- Medical fees
- CRB and DVLA checks

Officers shall not give verbal orders, unless by reason of urgency (e.g. out of hours service) and any such orders must be confirmed by an official order on the next working day.

## Part 4 - Rules of Procedure

Each order must conform with the directions of the Council on central purchasing and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior written approval of the S151 Officer and Council Solicitor

The normal method of payment of money due from the Council shall be by BACS or other instrument drawn on the Council's bank account by the S151 Officer. The use of direct debit shall require the prior agreement of the S151 Officer.

Official orders must not be raised for any personal or private purchases, nor should personal or private use be made of Council contracts.

### D4.3 Key controls

The key controls for ordering and paying for work, goods and services are:

- all goods and services are ordered only by appropriate persons;
- all goods and services shall be ordered in accordance with the Council's Procurement Strategy and Contract Standing Orders;
- all goods and services to be ordered using the Council's purchasing system, except those detailed in section D4.2;
- goods and services received are checked to ensure they are in accordance with the order;
- payments are authorised by officers who can certify that goods have been received to price, quantity and quality;
- all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method;
- all appropriate payment documents are retained and stored for the defined period in accordance with the Finance Document Retention Policy and Schedule;
- all expenditure including VAT, is accurately recorded against the right budget and any exceptions corrected;
- in addition, electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

### D4.4 Responsibilities of the S151 Officer

To ensure that all of the Council's financial systems and procedures are sound and well administered.

To approve any changes to existing financial systems and to approve any new systems before they are introduced.

To approve the form of official orders, and associated terms and conditions.

To make payments from the Council's funds on the appropriate authorisation that the expenditure has been duly certified in accordance with Financial Regulations.

To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.

To make payments to contractors on the certificate of the appropriate Head of Service / Service Manager which must include details of the value of work, retention money, amounts previously certified and amounts now certified.

To provide advice and encouragement on making payments by the most economic means.

To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment confirming:

- receipt of goods or services;
- that the invoice is addressed to Gloucester City Council;
- that the invoice has not previously been paid;

## Part 4 - Rules of Procedure

- that prices and arithmetic are correct;
- correct accounting treatment of tax;
- the invoice is correctly coded;
- discounts have been taken where available;
- that appropriate entries will be made in accounting records.

To ensure that all appropriate payment records are retained and stored for the defined period in accordance with the Council's Document Retention Policy.

### **D4.5 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To ensure that only orders generated from the Financial System are used for all goods and services other than the exceptions specified earlier.

To ensure that orders are only used for goods and services provided to the Council. Individuals must not use official orders to obtain goods or services for their private use.

To ensure that only agreed staff authorise orders and to maintain an up-to-date list of such authorised staff whose names and signatures shall be forwarded to the S151 Officer. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained in accordance with Contract Rules. Value for money should always be taken into consideration in accordance with the Council's Procurement Strategy.

To ensure that goods and services are checked on receipt to ensure they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order.

Payment should not be made on a statement or other document other than the formal invoice.

All invoices recommended for payment must be certified by an appropriate officer and must, wherever possible, reference the purchase order reference.

To encourage suppliers of goods and services to receive payment by the most economic means. Payments should, however, not be made by direct debit unless essential and with the prior approval of the S151 Officer.

To ensure that the Council obtains best value for money from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the guidelines and best practices set out in the Council's Procurement Strategy and Contract Standing Orders.

To ensure that employees are aware of the national Code of Conduct for local government employees and any locally adopted codes or rules relevant to employees' conduct.

To ensure that no loan, leasing or rental arrangements are entered into without prior agreement from the S151 Officer. This is because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements and to ensure value for money is being obtained.

To notify the S151 Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the S151 Officer.

To notify the S151 Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.



## Part 4 - Rules of Procedure

### D5 Taxation

#### D5.1 Why is this important?

Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

#### D5.2 Key controls

The key controls on taxation are:

- budget holders are provided with relevant information and kept up-to-date on tax issues;
- budget holders are instructed on required record keeping;
- all taxable transactions are identified, properly carried out and accounted for within stipulated timescales;
- records are maintained in accordance with instructions;
- returns are made to the appropriate authorities within the stipulated timescale.

#### D5.3 Responsibilities of the S151 Officer

To complete all Inland Revenue returns regarding PAYE.

To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.

To provide details to the Inland Revenue regarding the Construction Industry Tax Deduction Scheme:

To maintain up-to-date guidance for Council employees on taxation.

#### D5.4 Responsibilities of Corporate Directors, Heads of Service and Service Managers

To ensure that the correct VAT liability is attached to all income and that all VAT recoverable on purchases complies with HM Customs and Excise Regulations.

To ensure that all persons employed by the Council are added to the payroll and tax is deducted from any payments, except where the individuals are bona fide self employed or are employed by a recognised staff agency.

To follow the guidance on taxation issued by the S151 Officer.

## Part 4 - Rules of Procedure

### APPENDIX E: EXTERNAL ARRANGEMENTS

#### E1 Partnerships

##### E1.1 Why is this important?

The days of the all-purpose authority that plans and delivers everything are over. It is in partnership with others - public agencies, private companies, community groups and voluntary organisations - that the future of local government lies. Local authorities will deliver some services, but their distinctive leadership role will be to bring together the contributions of the various stakeholders. They will need to deliver a shared vision of services by bringing cohesion and co-ordination to the fragmentation of local interests.

Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what, in partnership with others, they achieve.

##### E1.2 General

The main reasons for entering into a partnership are:

- the desire to find new ways to share risk;
- the ability to access new resources;
- to forge new relationships.

A partner is defined as either:

- an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project; or
- a body whose nature or status give it a right or obligation to support the project.

Partners participate in projects by:

- acting as a project deliverer or sponsor, solely or in concert with others;
- acting as a project funder or part funder;
- being the beneficiary group of the activity undertaken in a project.

Partners have common responsibilities:

- to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
- to act in good faith at all times and in the best interests of the partnership's aims and objectives;
- be open about any conflict of interests which might arise;
- to encourage joint working and best value between themselves, promote the sharing of information, resources and skills between public, private and community sectors;
- to hold confidentially any information received, as a result of partnership activities or duties, that is of a confidential or commercially sensitive nature;
- to act wherever possible as ambassadors for the project.

##### E1.3 Key Controls

The key controls for Council Partners are:

- to be aware of their responsibilities under the Council's Financial Regulations and Contract Standing Orders;
- to ensure risk management processes are in place to identify and assess all known risks;
- to ensure project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise;

## Part 4 - Rules of Procedure

- to agree the roles and responsibilities of each of the partners involved in the project before the project commences;
- to communicate regularly with other partners throughout the project so that problems can be identified and resolved;
- Regular reviews are made by the Council to ensure that the partnership is delivering the aims agreed in the project appraisal and that all parties are delivering their commitments as agreed.

### **E1.4 Responsibilities of the S151 Officer**

To advise on effective controls which will ensure that resources are not wasted.

To advise on the key elements of funding a project:

- scheme appraisal for financial viability;
- risk appraisal;
- resourcing, including taxation issues;
- audit requirements.

### **E1.5 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To ensure that the approval of Cabinet is obtained before any negotiations are concluded on partnership arrangements.

To maintain a register of all partnership arrangements entered into in accordance with procedures specified by the S151 Officer.

To provide appropriate information to the S151 Officer to enable a note to be entered into the statement of accounts.

To ensure the appropriate access to records belonging to partner organisations.

## **E2 External Funding**

### **E2.1 Why is this important?**

As local authorities are encouraged to provide 'seamless' service delivery through working closely with other agencies and private service providers, the scope for external funding has increased.

### **E2.2 Key controls**

To ensure that key conditions of funding and that any statutory requirements are complied with.

### **E2.3 Responsibilities of the S151 Officer**

To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.

### **E2.4 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To ensure that all claims for funds are made by the due date.

## **E3 Work for Third Parties**

### **E3.1 Why is this important**

Current legislation enables the Council to provide a range of services to other bodies. Arrangements should be in place to ensure that any risk associated with this work is minimised.

### **E3.2 Key controls**

To ensure that proposals are properly costed in accordance with guidance provided by the Head of Policy & Resources.

## Part 4 - Rules of Procedure

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To ensure that contracts are drawn up using guidance provided by the Head of Policy & Resources and that the formal approvals process is adhered to.

### **E3.3 Responsibilities of Corporate Directors, Heads of Service and Service Managers**

To ensure that the approval of Cabinet is obtained before any negotiations are concluded to work for third parties.

To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Head of Policy & Resources.

To ensure that appropriate insurance arrangements are made.

To ensure that the Council is not put at risk from any bad debts.

To ensure that no contract is subsidised by the Council.

To ensure that, wherever possible, payment is received in advance of the delivery of the service.

To ensure that the Service has the appropriate expertise to undertake the contract.

To ensure that such contracts do not impact adversely upon the services provided for the Council.

To ensure that all contracts are properly documented.

To provide appropriate information to the S151 Officer to enable a note to be entered into the statement of accounts.

## Part 4 - Rules of Procedure

### APPENDIX F: SCHEME OF VIREMENT

This table represents the Council's approved Scheme of Virement which is maintained by the S151 Officer and should be read in conjunction with Section A3 of the Financial Regulations.

Value	Authorisation	Description
£0 - £10,000	Heads of Service decision in consultation with the S151 Officer.	Approval to vire between expenditure heads within Cost Centres.
£0 - £50,000	Corporate Directors decision in consultation with the S151 Officer.	Approval to vire between Cost Centres within the Directorate or Policy area and/or, Revenue to Capital and vice-versa.
£0 - £50,000 across Directorate	S151 Officer decision.	Approval.
£50,000 - £100,000	Portfolio holder decision – may be a key decision if it meets the key decision criteria.	S151 Officer recommends to portfolio holder. Approval is sub-delegated jointly to the Cabinet Member for Performance and Resources.
In excess of £100,000 or virements from revenue to Capital or vice-versa	Council decision Full Cabinet Decision – key decision if it meets the key decision criteria (c).	S151 Officer recommends to Cabinet.

Note:

- (i) Virements involving staff budgets and indirect costs do not represent ongoing commitments and authorisation should be sought from the S151 Officer, before considering any such virement.

Part 4 - Rules of Procedure

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**CONTRACT RULES**

## Part 4 - Rules of Procedure

### Contract Rules

#### CONTENTS

	<b>Page</b>
<b>Section 1 – General Compliance and Scope</b>	<b>65</b>
1. Compliance	65
2. Scope	65
<b>Section 2 – Common Requirements</b>	<b>66</b>
3. Calculation of Contract Values	66
4. Authorised Officers and their responsibilities	66
5. Contract Values	67
6. Waivers	71
<b>Section 3 – <u>Quotation and Tendering Process</u></b>	<b>72</b>
7. Advertising	72
8. Suitability assessment and Pre-Qualification	72
9. Electronic Tendering	73
10. Dividing into Lots	73
11. Invitation to Tender	73
12. Submission and Opening of Tenders and Quotes	74
13. Arithmetical Errors and Post Tender Clarification	75
14. <u>Tender Evaluations</u>	75
15. Awarding Contracts	76
16. <u>Debriefing</u>	77
<b>Section 4 – Contract Formalities</b>	<b>77</b>
17. Execution of contracts	77
18. Records of <u>Quotes, Tenders</u> and <u>contracts</u>	77
19. Bonds and Parent Company Guarantees	77
20. Embedded Leases and Embedded Derivatives	77
<b>Section 5 – Specific Types of Tendering</b>	<b>78</b>
21. Framework Agreements <u>and Dynamic Purchasing Systems</u>	78
22. Draw Down Agreements	79
23. Collaborations and joint working	79
24. Procurement by Consultants	79
25. Nominated and Named Sub-Contractors	79
26. Amendments to <u>Contracts</u> <u>contracts</u>	80
27. Contract Management	81
Definitions	82

## Part 4 - Rules of Procedure

### SECTION 1: General Compliance and Scope

#### 1. Compliance

1.1 Every contract entered into by the Authority shall be entered into pursuant to or in connection with the Authority's functions and shall comply with:

1.1.1 All relevant legislation, statutory guidance provisions including and codes and statutory guidance. ~~E.g. Transparency Code;~~

1.1.2 The relevant European procurement rules when applicable and whilst they have a direct effect in the UK (i.e. the EC Treaty, the general principles of EC law and the EC public procurement directives implemented by the UK Regulations);

1.1.3 The Authority's Constitution including these Contract Rules, the Authority's Financial Rules and Scheme of Delegation;

1.1.4 The Authority's strategic objectives, Procurement Strategy, Procurement Code and relevant policies.

1.2. The policy of the Authority, and the objective of these Contract Rules, is to ensure that all works, goods~~supplies~~ and services:

1.2.1 Are obtained with probity and propriety to ensure the proper expenditure of public funds;

1.2.2 Are appropriate for the purpose for which they are obtained;

1.2.3 Ensure Best Value for Money.

#### 2. Scope

2.1 These Contract Rules apply to any arrangement made by, or on behalf of, the Authority for the carrying out of works, the provision of services ~~or for the supply of goods, supplies, materials or services.~~

2.2. These Contract Rules do not apply to:

2.2.1 contracts of employment which make an individual a direct employee of the authority;

2.2.2 the acquisition, disposal, or transfer of land (which must only be carried out by the Asset Manager officers with delegated authority) except where services or works are required by the Authority as part of the land transaction. E.g. regeneration projects~~development agreements;~~

2.2.3 contracts relating to the placement of deposits or raising of loans under the treasury management strategy;

2.2.4 purchases made at public auction; and

2.2.5 the giving of grants



## Part 4 - Rules of Procedure

### SECTION 2: Common Requirements

#### 3. Calculation of Contract Values

- 3.1 Unless otherwise stated, the calculation of the estimated value of a procurement shall be based on the total amount payable in pounds sterling, net of VAT, as estimated by the Authority over the entire contract period, including any proposed extension to the initial contract period.
- 3.2 The estimated value is to be calculated as at the date the contract is first advertised or the Candidates are contacted, whichever occurs first.
- 3.3 Contracts should be for a fixed term, but where this is not possible (e.g. hire agreements) the contract value should be calculated by multiplying the monthly value by 48.
- 3.4 Contracts must not be artificially under or over-estimated or divided into two or more separate contracts where the effect is to avoid the application of [these Contract Rules](#) or [the Regulations](#).

#### 4. Authorised Officers and their Responsibilities

- 4.1 Authorised Officers are persons responsible for carrying out the procurement in question and who have received corporate training on these Contract Rules, [the Regulations](#) and the Procurement Code.
- 4.2 The Authorised Officer must proceed with the procurement in a manner commensurate with its complexity and value, by:
- 4.2.1 appraising the need for the expenditure and its priority;
  - 4.2.2 defining the objectives of the procurement;
  - 4.2.3 assessing the risks associated with the procurement and how to manage them;
  - 4.2.4 considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium and frameworks;
  - 4.2.5 consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring;
  - 4.2.6 Checking to see if a corporate contract already exists. E.g. stationery contract.
  - 4.2.7 Where the procurement involves changing services provided by the Authority the Authorised Officer ensuring compliance with
    - the Authority's duty to consult under Section 3 Local Government Act 1999

## Part 4 - Rules of Procedure

- the Authority's duties under the Equality Act 2010.
- The Public Social Value Act 2012 for contracts for services over the ~~EU~~ threshold to ensure how the procurement might improve the economic, social and environmental well-being of the geographical area the Authority serves

4.2.8 Ensuring the Budget Holder has sufficient budget to sustain the contract for the life of the contract.

4.2.9 for Quotes and Tenders ~~with a value of below £2540,000.00 or less~~ attaching the relevant standard terms and conditions to the purchase order or otherwise draw the attention of the Supplier to these standard terms and conditions;

4.2.10 for Quotes and Tenders above ~~£4925,000.00~~, instructing the Council's Solicitor in writing to draft or approve the formal written contract terms and conditions that are to apply to the proposed contract;

4.2.11 ensuring that a purchase order is raised for the contract.

4.2.12 Procurements valued at above £500,000 are deemed to be "Key" decisions and therefore must be included on the Forward Plan for Cabinet to determine.

4.3 When any employee either of the Authority or of a service provider may be affected by any transfer arrangements, Authorised Officers must ensure that the Transfer of Undertaking Protection of Employment Regulations 2006 (TUPE) issues are considered and obtain legal advice before proceeding with inviting Tenders or Quotes.

4.4 Any procurement that is:

- over ~~EU~~ the ~~£~~ threshold and TUPE applies or
- is over budget

shall be referred to the relevant Cabinet or Council for decision, unless otherwise stated elsewhere in the Authority's constitution.

### 5. Contract Values

5.1 Where the total value for a purchase is within the values in the first column below, unless the procurement is via a compliant Framework Agreement, Dynamic Purchasing System or Draw Down Agreement, the award procedure in the second column must be followed:

Estimated Total Contract Value	Contract Letting Requirements & Forms of Contract
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## Part 4 - Rules of Procedure

<p><u>Up to</u> £10,000.00 <u>and below</u></p>	<p>The Budget Holder can purchase from the source that offers the best value for money to the Authority.</p> <p>This could be demonstrated by the obtaining of 2 written Quotes, where this is possible.</p> <p>Contracts shall be by purchase order with <u>the relevant standard terms and conditions attached or otherwise drawn to the attention of the Supplier.</u></p> <p>The Authority's e-tendering system must be used for obtaining quotations unless otherwise agreed by the Procurement Adviser.</p>
<p><u>From</u> <del>Above</del> £10,000.00 to £50,000.00</p>	<p>The Authority's e-tendering system must be used by the Authorised Officer for obtaining quotations unless otherwise agreed by the Procurement Adviser</p> <p>The e tendering system shall be used to select 3 Suppliers at random from the Suppliers registered on the e tendering system, two local and one national.</p> <p>The Authorised Officer may select up to 4 other Suppliers.</p> <p>At least 3 written Quotes shall be invited unless agreed with S151 officer in consultation with the Procurement Adviser.</p> <p><u>Where a procurement opportunity with a value estimated to be £25,000 or above is Advertised, it must also be advertised on Contract Finder using the e-tendering system (within 24 hours of any other adverts appearing) (and/or other public advertisement as determined by the Authorised Officer) together with unrestricted and full direct internet access to relevant contract documents.</u></p> <p><u>A pre-qualification stage is not permitted but appropriate suitability questions may be asked in the Request to Quote</u></p> <p><u>A formal written contract prepared or approved by the Council Solicitor must be used.</u></p> <p><del>A formal written contract prepared/ approved by the Council's Solicitor must be utilised</del></p> <p><del>Contracts with a value of below £25,000.00 or less shall be by purchase order with the relevant standard terms and conditions attached or otherwise drawn to the attention of the Supplier.</del></p>
<p><u>From</u> <del>Above</del> £50,000.00 to EU Threshold</p>	<p><u>A full competitive procurement shall be undertaken through the Authority's e-tendering system using an Invitation to Tender.</u></p>

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## Part 4 - Rules of Procedure

	<p><del>The Authority's e-tendering system must be used for advertising opportunities.</del></p> <p>The opportunity must be advertised on Contracts Finder (within 24 hours of any other adverts appearing) (and/or other public advertisement as determined by the Authorised Officer) together with unrestricted and full direct internet access to relevant contract documents.</p> <p><del>A pre-qualification stage is not permitted except for procurements of works contracts above the The threshold</del>  <u>Open Procedure shall be followed for goods supplies and services and works. A PAS91 pre-qualification questionnaire must be used.</u></p> <p>A formal written contract prepared <del>or</del> <u>approved</u> by the Council's Solicitor must be <del>utilised</del> <u>used</u>.</p>
<p>EU-Threshold and Above</p>	<p><del>A full competitive procurement shall be undertaken through the e-tendering system using an Invitation to Tender.</del></p> <p><u>A formal written contract prepared or approved by the Council Solicitor must be used.</u></p> <p><del>Procurement opportunities s</del><u>Shall be advertised</u></p> <ul style="list-style-type: none"> <li>• <u>either in the Official Journal of the European Journal (OJEU) or using the UK e-notification service, as required by Law</u></li> <li>• <u>on the website of the Authority</u></li> <li>• <u>on Contract Finder within the time limit specified in the Regulations in the Official Journal of the European Union (OJEU), on the e-tendering system of the Authority, and on Contracts Finder (within 48 hours of the receipt of OJEU notice being received at publications office or within 24 hours of the OJEU notice being published) (and/or other public advertisement as determined by the Authorised Officer).</u></li> </ul> <p><del>Pre-qualification questionnaires (PQQ) can be used in the procurement of works contracts where the value of the works exceeds the EU threshold for goods and services.</del></p> <p>The Procurement Adviser in consultation with the Council's Solicitor shall advise on the most appropriate <del>EU</del> procurement procedure to be used <del>when conducting a procurement</del> <u>for the relevant goods, services and/or works to be procured</u>. The two most common procedures are:</p> <ul style="list-style-type: none"> <li>• <b>Open Procedure</b> – <u>a one stage process where anyone can submit a tender</u></li> </ul>

## Part 4 - Rules of Procedure

- **Restricted Procedure** – ~~a two stage process where following receipt of expressions of interest a pre-qualification questionnaire (PQQ) a Selection Questionnaire~~ is used to shortlist Candidates who are then invited to submit a tender.

The follow procedures can only be used in certain circumstances following advice from the Procurement Adviser or Council's Solicitor.

- **Innovation Partnership;**
- **Competitive dialogue**
- **Competitive Procedure with negotiation.**

Light Touch Regime

Contracts involving the following ~~goods~~supplies and services are subject to a 'light touch' regime if the value of the contract is below the prescribed ~~threshold contained in the EU Regulations;~~

- Health, social and related services
- Administrative social, educational, healthcare and cultural services
- Compulsory social security services
- Benefit services
- Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services
- Legal services
- Other administrative services and government services
- Provision of services to the community
- Prison related services, public security and rescue services
- Investigation and security services
- International services
- Postal services

## Part 4 - Rules of Procedure

	<ul style="list-style-type: none"> <li>Miscellaneous services listed in schedule 3 of the Public Contract Regulation 2015</li> </ul> <p>Advice must be sought from the Procurement Adviser before undertaking a light touch regime procurement.</p> <p><del>A formal written contract prepared/approved by the Council's Solicitor must be utilised.</del></p>
Concessions	<p>A concession contract is an agreement where Suppliers are given the right to exploit works or services provided for their own gain. Suppliers can either receive payment for their services solely through third party sources or partly through consideration from the contracting authority along with income received from third parties e.g. a services concession is where a supplier has a contract to manage an Authority's catering services for its staff. The Authority doesn't pay the Supplier to run the services and its income is solely through the staff using the facilities. The risk in the concession making a profit is with the Supplier and not the Authority.</p> <p>Advice must be sought from the Procurement Adviser before undertaking Concession related procurement.</p> <p>A formal written contract prepared/approved by the Council's Solicitor must be utilised.</p>
Disposal of assets (other than land)	<p>Where the Authority is selling or disposing of assets without the provision of services then the Authority's obligation is to achieve the best value for the items. This could be achieved by obtaining quotes or conducting a full tender depending upon the items being disposed of. Any disposal must be in accordance with the Authority's Finance Rules.</p>
Disposal of land	<p>These <del>eContract #Rules and the Regulations</del> apply where the Authority is disposing of land and there is an element of services or works required by the Authority as part of the disposal these Contract Rules apply. E.g. <del>regeneration projects</del> <u>development agreements</u></p>

### 6. Waivers

6.1 Subject to the written approvals referred to in Contract Rule 6.2 below, waivers of any of these Contract Rules shall only be given in the following exceptional circumstances:-

6.1.1 Where the ~~goods~~ supplies, materials, works or services are of a unique or specialised nature or are identical or similar to or compatible with an existing provision so as to render only one or two sources of supply appropriate, including:

- an upgrade or

## Part 4 - Rules of Procedure

- where the contract concerns, wholly or mainly, repairs to or the supply of parts for existing proprietary machinery, plant or equipment and the repairs to or the supply of parts cannot be carried out practicably by alternative ~~Contractors~~ Suppliers;

or

6.1.2 The ~~goods~~ supplies or materials to be purchased are proprietary articles or are sold only at fixed prices; or

6.1.3 The price of services, ~~or goods~~ supplies or materials to be purchased is controlled by trade organisations, or if for other reasons there would be no genuine competition; or

6.1.4 Where in the opinion of the Authorised Officer in consultation with the Section 151 Officer and the Council's Solicitor considers that the services to be provided or the work to be executed or the ~~goods~~ supplies or materials to be purchased are urgent; or

6.1.5 Specialist consultants, solicitor, barrister, agents, artist or professional advisers are required and:

- There is no satisfactory alternative; or
- Evidence indicates that there is likely to be no genuine competition; or
- It is, in the opinion of the Authorised Officer, in the Authority's best interest to engage a particular consultant, solicitor, barrister, agent, artist or adviser;

or

6.1.6 ~~Where the Authority is purchasing a property, or is taking a service back in-house, which has associated contracts and in the opinion of the Authorised Officer it is in the Authority's best interests to take on those contracts. The goods or materials to be purchased are within a bulk purchasing agreement made between the Authority and a consortium or other organisation approved by the Authority;~~ or

6.1.7 The works to be executed or the ~~goods~~ supplies or materials to be purchased can only be carried out or supplied by a statutory body.

6.2 These Contract Rules cannot be waived for the procurements above the relevant ~~EU~~ Threshold.

6.3 Where it is possible to waive these Contract Rules, any such waiver must be agreed by:

6.3.1 Cabinet for contracts above ~~£400~~ £250,000.00 or the Head of Paid Service in consultation with the Leader of the Authority, ~~the Section 151 Officer and the Council Solicitor~~ if the matter requires an urgent decision and a meeting of the Committee cannot be called; or

6.3.2 The Budget Holder ~~(if authority to do so has been delegated to them)~~ or the Head of Paid Service, a Corporate Director, in consultation with the Section 151 Officer and the Council's Solicitor if the contract ~~is~~ does not exceed £40 £250,000.00 or less.

## Part 4 - Rules of Procedure

- 6.4 A record of the decision and the reasons for it shall be kept and the wavier itself shall be kept by the [Council Solicitor with a copy given to the](#) Procurement Adviser.

### SECTION 3: Tendering and Quotation Process

#### 7. Advertising

- 7.1 Adverts shall include as a minimum:

- Date and time response to be received by the Authority
- How and to whom the Supplier must respond and
- Any requirements for participating in the procurement
- specification

- 7.2 Adverts shall be placed on the Authority's e-tendering system, Contracts Finder and if required on the Authority's website. The Authority shall also offer unrestricted and full direct access free of charge to the procurement documents at the time adverts are placed

- 7.3 Opportunities with a value over the relevant [EU](#) Threshold must also be advertised in the Official Journal of the European Union (OJEU) [or using the UK e-notification service, as required by law](#) by submitting a Contract Notice.

#### 8. Suitability Assessment (under [EU](#) Threshold) and Pre-Qualification (above [EU](#) Threshold only)

- 8.1 Authorised Officers are responsible for ensuring that all Candidates for a contract are suitably assessed.

##### Under EU Threshold

- 8.2 As part of the tender or quotation process [the](#) Authorised Officer shall establish that the potential Candidates meet minimum requirements or minimum standards of :

- Suitability.
- Capability.
- Legal status; and
- Financial standing

The assessment questions must be

- 8.3
- relevant to the subject matter of the procurement and
  - proportionate

- 8.4 For works [and work related](#) contracts above the [TEU](#) threshold [for supplies y](#) and services [level](#) a [Pre-qualification Questionnaire \(PQQ\)](#) stage is permitted. Officers must use form PAS91 or such other [required PQQ](#) template [required by Law or by the Government](#).

##### Above EU Threshold

- 8.5



## Part 4 - Rules of Procedure

Procurements above the ~~EU-T~~ threshold can use a ~~Ppre-Q~~ qualification ~~Questionnaire~~ (~~PQQ~~) stage. Officers must use the ~~PQQ-Selection Questionnaire~~ form issued by the Government or for works contract form PAS91 or such other ~~required PQQ~~ templates ~~as required by Law or by the Government~~. As any deviations the standard form must be reported to the Cabinet Office changes to the form are not permitted without the consent of the Procurement Adviser, ~~Section~~ 151 Officer and the Council's Solicitor.

8.6 Any Candidate eliminated from a procurement where a ~~PQQ-pre-qualification process~~ has been undertaken must be notified following the evaluation of that stage in the process.

8.7 ~~Any procurement subject to the EU Regulations shall comply with the appropriate EU Regulations.~~

### 9. Electronic Tendering

9.1 ~~On 18th October 2018, electronic procurement and electronic communications became compulsory for above Threshold procurements. Except in the limited circumstances contained in the Regulations, all communication and information exchange, including electronic submission of tenders, shall be performed using electronic means of communication in accordance with the requirements of the Regulations.~~

~~Except for procurements with a value of £10,000.00 or below, the procurement shall be carried out through the Portal unless otherwise permitted by these Contract Rules or by the Procurement Adviser and the Section 151 Officer. For quotes under £10,000 the Portal should be used were appropriate to do so.~~

~~The procurement may, following consultation with the Procurement Adviser and the Council Solicitor, be carried out through an electronic auction where the Authorised Officer is satisfied that it is in the interests of the Authority to do so.~~

9.2 The Authority's e-tendering system must be used for conducting ~~Tendering procurement~~ exercises ~~if required by n-accordance with~~ these Contract Rules.

9.23 The Authorised Officer following consultation with the ~~Council's Solicitor~~ Council Solicitor may authorise the carrying out of an electronic auction where satisfied that it is in the interests of the Authority to do so.

### 10. Dividing Tenders into Lots

10.1 Authorised Officers may decide to award a contract in the form of separate lots and may determine the size and subject ~~-~~matter of such lots.

10.2 For an above ~~EU-T~~ threshold procurement, ~~if~~ the contract is not split into lots the main reasons for this decision shall be included in the procurement documents and the Regulation 84 Report.

10.3 Authorised Officers shall include in the notice and or tender documents ~~whether:~~

10.3.1 ~~if~~ tenders can be submitted for one, for several or for all of the lots.

10.3.2 if there is a limit on the numbers of lots that can be tendered for.

## Part 4 - Rules of Procedure

10.4 Where more than one lot may be awarded to the same ~~tenderer~~Candidate, Awarding Officers may award contracts combining several or all lots where they have specified in the contract notice or in the invitation to tender that they reserve the possibility of doing so and indicate the lots or groups of lots that may be combined.

### 11. Invitation to Tender

11.1 The Invitation To Tender shall state that no Tender will be considered unless it is received by the date and time stipulated in the Invitation To Tender. Subject to Contract Procedure Rule 11.3 below, no Tender delivered in contravention of this Contract Procedure Rule shall be considered.

11.2 All Invitations To Tender shall be in accordance with the Contract rules, codes and policies.

~~11.3 No Tenders received after the specified date and time for receipt of Tenders shall be accepted or considered by the Authority unless the Authorised Officer, after consulting the s151 Officer and the Council's Solicitor, is satisfied that there is sufficient evidence for the Tender having been despatched in sufficient time for it to have arrived before the closing date and time.~~

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### 12. Submission and Opening of Tenders and Quotes

12.1 Tenders and Quotes shall be submitted in accordance with requirements set out in the Invitation to Tender or Request to Quote ~~as appropriate~~.

No Tenders or Quotes received after the specified date and time for receipt shall be accepted or considered by the Authority unless the Authorised Officer, after consulting with the Procurement Adviser, the Section 151 Officer and the Council Solicitor, is satisfied that there is sufficient evidence that either:

- the Tender or Quote was despatched in sufficient time for it to have arrived before the closing date and time
- Technical difficulties with the e-tendering system prevented the Tender or Quote from being submitted before the closing date and time

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#### Quotations (under £50,000.00)

##### Electronic Quotation submissions

12.2 Where Quotations are received through the Authority's e-tendering system, the e-tendering system will automatically record the time and date the Quotations were received. All Quotations will be retained and remain unopened in the secure system until the requisite deadline for opening.

12.3 All Quotations will be opened by the Authorised Officer or the Procurement ~~Adviser~~Adviser or officer nominated by the Procurement ~~Adviser~~Adviser at the same time automatically using the authority's e-tendering system. This system will formally record the date and time for audit purposes.

12.4

## Part 4 - Rules of Procedure

Once the Quotations have been opened, they will be stored securely in the electronic portal.

12.5

The successful Supplier shall be asked to provide an original signed paper copy of the quotation submission for inclusion in the contract documents.

### **Paper Quotations submissions**

~~12.6~~

~~Where Quotations are received in paper format, the submissions shall be addressed to the Procurement Adviser in a plain sealed envelope endorsed with the words "Quotation — Do Not Open" followed by the subject matter to which it relates (but no other name or mark indicating the sender). Quotations shall be kept in a safe place by the Procurement Adviser and remain unopened until the time and date specified for their opening.~~

### **Tenders (£50,000.00 and above)**

#### **Electronic tender submissions**

12.7

Where Tenders are received through the Authority's e-tendering system, the e-tendering system will automatically record the time and date the Tenders were received. All Tenders will be retained and remain unopened in the secure system until the requisite deadline for opening.

12.8

All Tenders will be opened by the [Section 151](#) Officer or an officer nominated by the [Section 151](#) Officer at the same time automatically using the authority's e-tendering system. This system will formally record the date and time of opening for audit purposes.

12.9

Once the tenders have been opened, they will be stored securely in the electronic portal.

12.10

The successful Supplier shall be asked to provide an original signed paper copy of the tender submission for inclusion in the contract documents.

### **Paper tender submissions**

~~12.11~~

~~Where Tenders are received in paper format, the submissions shall be addressed to the Procurement Adviser in a plain sealed envelope endorsed with the words "Tender — Do Not Open" followed by the subject matter to which it relates (but no other name or mark indicating the sender). Tenders shall be kept in a safe place by the Procurement Adviser and remain unopened until the time and date specified for their opening.~~

~~12.12~~

~~Paper Tenders shall be opened by the [S151](#) Officer or an officer nominated by the [S151](#) Officer. An immediate record shall be made of the Tenders received including names, amount of tender and the date and time of opening.~~

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**13.**

### **Arithmetical Errors, Post Tender Clarification and Abnormally Low Tenders**

13.1

Candidates can only alter their Tenders or Quotes after the date specified for their receipt (but before the formal acceptance of the Tender or Quote), where examination by the Authorised Officer ~~of the Tender or Quote~~ reveals arithmetical errors or discrepancies which affect the Tender or Quote figure. The Candidate shall be given details in writing of such errors or discrepancies and afforded an opportunity of confirming, amending or withdrawing their offer in writing.

## Part 4 - Rules of Procedure

- 13.2 In an EU above threshold procurement the Authority must require ~~tenderers~~ Candidates to explain the price of costs proposed in the tender where the tender appears to be abnormally low in relation to the works, supplies or services.
- 13.3 All post-tender clarifications shall:
- 13.3.1 only be undertaken following consultation with the Procurement Adviser and the ~~Council's Solicitor~~ Council Solicitor; and
- 13.3.2 not disclose commercially sensitive information supplied by other ~~Candidates for the contract~~.
- 13.4 The Authority does not accept qualified or conditional quotes/tenders. Where a Candidate has submitted a qualified or conditional quotation/tender Authorised Officers, in consultation with the Procurement Adviser, must give Candidates the opportunity to withdraw the qualification or condition without amendment to the bid submitted.
- 14. ~~Tender~~ Evaluation**
- 14.1 Tenders and Quotes shall be evaluated in accordance with the ~~relevant~~ Regulations (where applicable) and the award criteria set out in the Invitation to Tender or Request for Quote.
- 14.2 All contracts shall be awarded ~~on the basis~~ based on the offer which represents the most economically advantageous, taking into account price and/or quality, to the Authority.
- 14.3 The award criteria shall be predetermined and listed in the Invitation to Tender or Request for Quote ~~documentation~~, in order of importance if applicable. In addition, the criteria shall be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.
- 14.4 For all ~~procurements~~ Contracts regardless of value, no person with a personal or financial interest in any of the ~~Contractors~~ Candidates submitting a proposal should be involved in any way in influencing the decision as to which ~~Contractor~~ Candidate is to be awarded the ~~Contract~~. A declaration of interest form must be completed by each officer involved in the evaluation process and held on file by the Authorised Officer.
- 14.5 Where Authorised Officers intend to carry out site visits presentations or interviews as part of the evaluation process, this must be made clear in the invitation to tender and include whether this will be scored separately to the tender submission or used to moderate scores. If scored separately, Candidates must be informed of the evaluation criteria and weighting in the ~~Tender~~ procurement documents.
- 15. Awarding Contracts**
- 15.1 The Authority shall only accept a tender and award a contract to the Candidate submitting the Most Economically Advantageous Tender/Quote.
- 15.2 Depending on what is being procured and whether or not it is an EU above Threshold procurement, the Most Economically Advantageous Tender/Quote can be assessed as follows;
- Price (i.e. the lowest bid)

## Part 4 - Rules of Procedure

- Cost (where the assessment is based on cost-effectiveness basis such as an asset life-cycle assessment (cost of the asset, maintenance costs, end of life costs)
- Best Price/Quality Ratio. (the award criteria can include quality, including technical merit, aesthetic and functional characteristics, delivery date, delivery process, after-sales service and technical assistance as well as environmental and/or social matters and any other matters relevant to what is being procured.

The award criteria and the scoring methods must be disclosed in the Invitation to Tender or Request for Quote.

15.3 A contract may only be awarded by an Awarding Officer with the requisite delegated authority to award contracts. Prior to award, the Authorised Officer should ensure that the Budget Holder responsible for the contract has sufficient funds in place to sustain the contract.

15.4 ~~For contracts with a value of £25,000.00 or above, regardless of w~~here the contract award opportunity was advertised, a contract award notice containing the name of the ~~Contractor~~Supplier, the date the contract was entered into and the value of the contract must be published on Contract Finder no later than 90 days after contract award. If below ~~EU~~Threshold include whether or not ~~Contractor~~Supplier is a Small and Medium-sized Enterprise (SME) or voluntary, community and social enterprise (VCSE)

15.5 ~~For above Threshold procurements, A~~ Contract Award Notice must be published in OJEU or the UK e-notification service as required by Law or the Government ~~where there has been an above EU Threshold Procurement~~ and the relevant standstill period observed. The ~~c~~contract shall not be completed or Purchase Order issued unless the standstill period passes with ~~no~~ challenges. ~~The~~ Authorised Officer shall notify the Procurement ~~Adviser~~Adviser and the ~~Council's Solicitor~~Council Solicitor immediately following receipt of a challenge.

15.6 Financial checks must be undertaken for all contracts where the value of the contract is above £10,000.00

15.7 For contracts over ~~£4025,000.00~~ the purchase order shall not be issued until the formal written contract has been completed.

### 16. Debriefing

16.1 The Authorised Officer shall provide a written debriefing to unsuccessful ~~Tenderers~~Candidates as required by the law.

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## SECTION 4: Contract Formalities

### 17. Execution of Contracts

17.1 All contracts not exceeding ~~£4025,000.00~~ ~~shall that require execution, shall~~ be signed by the ~~Managing Director, Corporate Director, Council Solicitor or any other officer with delegated authority to do so relevant Budget Holder, unless~~ ~~unless~~ the Council's Solicitor requires that the contract be sealed.

## Part 4 - Rules of Procedure

17.2 All contracts ~~exceeding with a value exceeding £4025,000.00~~ but not exceeding £50,000.00 shall be signed by the Council's Solicitor or some other person authorised by the Council Solicitor ~~or other authorised officer as set out in the Authority's constitution~~ unless the Council's Solicitor requires that the contract be sealed.

17.3 All contracts exceeding £50,000.00 shall be executed as a deed by the Council's Solicitor or some other person authorised by the Council Solicitor ~~or other authorised officer as set out in the Authority's constitution~~ and the common seal affixed to the contract unless the Council Solicitor considers it more expedient to sign the contract.

17.4 Electronic signatures may only be permitted as a method of executing contracts with the prior consent of the Section 151 officer having first obtained advice from the Council Solicitor.

### 18. Records of Quotes, Tenders and Contracts

18.1 The Procurement Adviser shall maintain a list of all Tenders and Quotes received.

18.2 A Contracts Register of all contracts over £5,000.00 awarded shall be maintained ~~by~~ the Section 151 officer.

18.3 All contracts ~~exceeding over~~ £4025,000.00 shall be kept by the Council's Solicitor and an electronic copy should be sent to the Procurement Adviser. All contracts below that value shall be kept securely by the Budget Holder in accordance with the Authority's retention policy.

### 19. Bonds and Parent Company Guarantees

19.1 Bonds or Parent Company Guarantee will be required on all works contracts above £1,000,000.00 unless considered inappropriate by the Section 151 Officer following consultation with the Council's Solicitor

19.2 Bonds or Parent Company Guarantee may be required for any contract if considered appropriate by the Director or Section 151 Officer following consultation with the Council's Solicitor

19.3 Bonds shall be a minimum of 10% of the contract value.

### 20. Embedded Leases and Embedded Derivatives

20.1 Prior to the award of a contract the Authorised Officer must notify the Section 151 officer where under the contract:

20.1.1 the Authority will have use or control of or will be paying for the use of a specific asset or group of assets; or

20.1.2. contains a clause that caps the price the Authority has to pay for supplies or services or there is a floor price on the price the Authority has to pay for supplies or services; or

20.1.3 the prices the Authority has to pay under the contract, increase by more than 2 times RPI; or

## Part 4 - Rules of Procedure

20.1.4 the prices the Authority has to pay, increase by some other form of Indices or commodity price.

### SECTION 5: Specific Types of Tendering

#### 21. Framework Agreements and Dynamic Purchasing Systems

##### Framework Agreements and Dynamic Purchasing Systems –set up by Other Contracting Authorities

21.1 External Framework Agreements and Dynamic Purchasing Systems (DPS), where the Authority is named or identified as part of a class of permitted users, can be used where the Authority wishes to contract for the sourcing of supplies, services or works without conducting a ~~new-full~~ procurement exercise.

21.2 The Framework Agreement and DPS may include within its terms a requirement for an abbreviated competitive exercise (mini competition)ive betw~~exercise between~~ some or all of those Suppliers who are parties to the Framework Agreements or who are on the DPS and can provide the ~~goods~~supplies, /services or works required, -being tendered. Other Framework Agreements may allow for a direct award or the choice of either direct award or mini completion. Any purchase from a Framework Agreement or a DPS shall be made in accordance with the rules and processes of that Framework or DPS.

21.3 ~~Any Call-Off from a Framework Agreement shall be tendered in accordance with the procedure set out in the Framework Agreement.~~

21.4 The approval of the Procurement Adviser or Council's Solicitor shall be sought before signing up to a new Framework Agreement or DPS.

A Call-Off contract as set out in the Framework Agreement will need to be entered into. If no pre agreed contract is provided for a contract approved by the Council's Solicitor, shall be entered into.

##### Framework Agreements and Dynamic Purchasing Systems set up by the Authority

21.5 The Authority may carry out procurement exercises to set up Framework Agreements or a DPS to allow it to choose ~~contractors or~~ suppliers who meet its pre-qualification requirements. The Authority can then ~~Call-Off~~ call-off Suppliers from the Framework Agreement or DPS ~~without having to carry out a further procurement exercise.~~ This could be useful where the Authority has need to call on ~~Contracts-suppliers~~ urgently or often for the same type of works, supplies or services. The Authority could also set up a framework agreement for itself and other local authorities to use in order to make efficiency savings.

21.6 Once a Framework Agreement or DPS is established, Quotes and Tenders for contracts may be invited from Suppliers included on Framework Agreement or DPS up to the financial limit stated in the Framework Agreement or DPS.

21.7 The Authority will need to carry out a procurement exercise to select the Suppliers to include on and set up the Framework or DPS. This procurement will need to be advertised in accordance with these Contract Rules and the Regulations. The ~~C~~contract ~~value limit referred to in rule 21.6 shall~~ value limit ~~to~~ be determined by the anticipated level of spend per Framework Agreement or DPS.

## Part 4 - Rules of Procedure

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~~21.8 A Contract Award Notice must be published in OJEU where there has been an above-EU Threshold Procurement and the relevant standstill period observed with no challenge~~

### ~~Publishing the Award of Call-Off Contracts under all Framework Agreements~~

~~21.98 The call off of a contract under a Framework Agreement or a DPS with a value of £25,000.00 or over above shall be published on Contract Finder~~

### 22. Draw Down Agreements

22.1 Authorised Officers may award Draw Down Agreements to individual Suppliers where services, supplies or works are required on an ad hoc basis. E.g. JCT measured terms agreements. More than one Draw Down Agreement may be awarded to different Suppliers for the same services supplies or works.

22.2 Authorised Officers shall carry out a procurement process for the award of the Draw Down Agreement in accordance with these Contract Rules

### 23. Collaborations and Joint Procurement

23.1 The Authorised Officer may participate in any collaborative or joint procurement arrangements with other Local Authorities or public bodies including membership or use of a Purchasing Consortia subject to the prior approval of the Director.

### 24. Procurement by Consultants

24.1 Any consultants used by the Authority shall be appointed in accordance with these Contract Rules and the Regulations. The Authorised Officer shall ensure that the consultant's performance is monitored.

24.2 Where the Authority uses consultants to act on its behalf in relation to any procurement, then the Authorised Officer shall ensure that the consultant carries out any procurement in accordance with these Contract Rules and Regulations.

24.3 Consultants may ~~advise~~ advise the Authorised Officer as to the most suitable candidate. The Authorised Officer can use the advice given by the Consultant to make their recommendation to the Awarding Officer.

24.4 No Consultant shall make any decision on whether to award a contract or to whom a contract should be awarded to. This decisions rests with the ~~Awarding Officer~~ Awarding Officer who shall ~~sign~~ sign the Tender Acceptance Form or waiver.

### 25. Nominated and Named Sub-Contractors

25.1 Tenders for sub-contracts to be performed or ~~goods, supplies and materials~~ to be supplied provided by nominated suppliers shall be dealt with in accordance with the provisions of these Contract Rules.

### 26. Amendments to Contracts

#### Above Threshold Contracts

~~26.1 A contract may be changed in any of the following circumstances:~~

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## Part 4 - Rules of Procedure

- ~~a) The contract contains a clear review or option clause which specifies the conditions as to when an amendment can be made. The scope and the nature of the change and the overall nature of the contract must not change~~
- ~~b) Additional works, services or goods that have become necessary and a change of supplier would not be practicable for economic or technical reasons or would involve substantial inconvenience/duplicate cost (limited to 50% of original contract price).~~
- ~~c) the need for change could not have been foreseen by a diligent contracting authority; and~~
- ~~• the changes do not affect the overall nature of the contract; and~~
  - ~~• any increase in price does not exceed 50% of the price of the original contract.~~
- ~~d) where a new contractor replaces the one to which the contracting authority had initially awarded the contract as a consequence of —~~
- ~~(i) an unequivocal review clause or option in conformity with Rule 26(1) (a), or,~~
- ~~(ii) universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established, provided that this does not involve other substantial changes to the contract and is not aimed at circumventing the application of the EU Regulations~~
- ~~e) The changes, irrespective of their value, are not Substantial (see the Definitions section for the definition of Substantial)~~
- ~~f) It is a change that does not affect the overall nature of the contract or Framework Agreement and the value of the change does not exceed~~
- ~~• The relevant EU Threshold~~
  - ~~• 10% (goods and/or services) 15% (works) of the initial value of the contract.~~

26.1 An above Threshold contract, Framework Agreement or DPS and call-offs awarded from them, can only be changed if permitted by the Regulations. Advice must be sought from the Council Solicitor before agreeing any change with the Supplier.

### Below Threshold Contracts

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26.2 In limited circumstances and having regard to the Regulations and advice from the Council Solicitor, the Awarding Officer may authorise changes to be made to Contract below Threshold.

26.23 Where successive changes are made, the value shall be the net value of the successive changes.

## Part 4 - Rules of Procedure

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~~26.3~~ ~~Where changes to a contract have been made under Rule 28.1 b) or c) above and the initial contract value exceeded the EU Threshold, a modification of contract notice shall be published in the OJEU~~

### 27. Contract Management

27.1 Authorised Officers ~~need~~ ~~shall~~ actively monitor and manage ~~Contractor~~ ~~Supplier's~~ performance throughout the contract life to ensure milestones, KPI's, deliverables and outcomes are achieved, ~~and~~ ~~Risks~~ and, where appropriate, business continuity ~~is~~ ~~shall~~ ~~be~~ managed as detailed in the ~~tender~~ ~~procurement~~ and Contract documentation. Management data needs to be published in accordance with the Government's Transparency Code.

27.2 Plans should be made well in advance to re-procure the contract (if applicable) and an exit strategy included in the tender, ~~and~~ procurement documentation and the contract.

## Part 4 - Rules of Procedure

DEFINITIONS	
<b>Advertised</b>	As defined in Regulation 110 of the Public Contracts Regulations 2015. "An opportunity is advertised if the Authority does anything to put the opportunity in the public domain or bring the opportunity to the attention of economic operators generally or to any class or description of economic operators which is potentially open-ended, with a view to receiving responses from economic operators who wish to be considered for the award of the contract"
<b>Authorised Officer</b>	An officer who is <del>authorised</del> responsible for carrying out to <del>undertake</del> the procurement in question and who has received corporate training on these Contract Rules.
<b>Awarding Officer</b>	The officer with the delegated authority to award the contract
<b>Best Value for Money</b>	The best solution for the Authority taking into account price, quality and deliverability.
<b>Bond</b>	An insurance policy: if the <del>Contractor</del> Supplier does not do what it has promised under a contract with the Authority, the Authority can claim from the insurer the sum, of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Authority against a level of cost arising from the <del>Contractor</del> Supplier's failure.
<b>Budget Holder</b>	The officer responsible for the budget for the relevant procurement
<b>Candidate</b>	Any person who <del>asks</del> may be entitled to or submits or is invited to submit a Quote or Tender.
<b>Call-Off Contract</b>	A contract awarded to a <del>supplier</del> Supplier under a Framework Agreement
<b>Concessions <u>Contracts</u></b>	An agreement where Suppliers are given the right to exploit works or services provided for their own gain.
<b>Consultant</b>	Someone appointed (but not under a contract of employment) for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role.
<b>Contracting Authorities</b>	Bodies <del>which that</del> are subject to the EU Regulations.
<b>Contractor</b>	<del>Any person, company or supplier who has been awarded a contract in accordance with these contract rules.</del>
<b>Council Solicitor</b>	means the senior legal <del>Adviser</del> adviser for the Authority
<b>Director</b>	means the Managing Director or Corporate Directors
<b>Draw down contract</b>	A contract with a single <del>s</del> Supplier where <del>goods</del> supplies, services or works are requested on an ad hoc basis
<b><u>Dynamic Purchasing System (DPS)</u></b>	A DPS is a procedure available to purchase commonly used goods, works or services. It is similar to a Framework Agreement but suppliers can apply to join at any time.

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## Part 4 - Rules of Procedure

<b>EU Regulations</b>	<del>The UK regulations implementing the EC public procurement directives.</del>
<b>EU Threshold</b>	<del>The values set by the European Commission which determine whether a procurement has to be carried out in accordance with the EU Regulations.</del>
<b>Framework Agreement</b>	An agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
<b>Head of Paid Service</b>	The officer designated as Head of Paid Service for the Authority under section 4 of the Local Government and Housing Act 1989
<b>Invitation to Tender (ITT)</b>	Invitation to Tender documents in the form required by these Contract Rules.
<b>Most Economically Advantageous Tender</b>	The most economically advantageous tender will be evaluated on the basis of either <ul style="list-style-type: none"> <li>• Price (i.e. the lowest price)</li> <li>• Cost (on the basis of a cost-effectiveness approach e.g. life-cycle costing)</li> <li>• Best price/quality ratio</li> </ul>
<b>OJEU</b>	<del>Official Journal of the European Union — where notices for all above EU Threshold procurements opportunities and contract awards must be placed.</del>

### PAS 91

~~Means the Publicly Available Specification 91 prequalification questionnaire published by the British Standard Institute for contracts for works and associated services and supplies (or such other document mandated for use by the Government).~~

<b>Parent Company Guarantee</b>	A contract <del>which</del> <u>that</u> binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Authority, the Authority can require the company to do so instead.
<b>Procurement Adviser</b>	<del>The An Procurement Officer engaged by on or on behalf of the Authority to provide; Pprocurement services Manager.</del>
<b><u>Quote / Quotation</u></b>	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
<b>Regulation 84 Report</b>	The report about the procurement required to be compiled under Regulation 84 of the Public Contracts Regulations 2015

### Regulations

~~Means the Public Contracts Regulations 2015, Concession Contracts Regulations 2016, Utilities Contracts Regulations 2016 or any other UK legislation regulating procurements by local authorities (as may be amended, modified or replaced from time to time)~~

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## Part 4 - Rules of Procedure

<b>Section 151 Officer</b>	The officer of the Authority who has been designated as such pursuant to Section 151 of the Local Government Act 1972. <del>The officer responsible for the proper administration of the Authority's financial affairs under section 151 of the Local Government Act 1972</del>
<b>Substantial</b>	In relation to a change to an existing contract of framework agreement means where one of the following conditions is met:- <del>(a) the change renders the contract or the framework agreement materially different in character from the one initially concluded;-</del> <del>(b) the modification introduces conditions which, had they been part of the initial procurement procedure, would have -</del> <del>(i) allowed for the admission of other candidates than those initially selected;-</del> <del>(ii) allowed for the acceptance of a tender other than that originally accepted; or-</del> <del>(iii) attracted additional participants in the procurement procedure;-</del> <del>(c) the modification changes the economic balance of the contract or the framework agreement in favour of the contractor in a manner which was not provided for in the initial contract or framework agreement;-</del> <del>(d) the modification extends the scope of the contract or framework agreement considerably;-</del> <del>(e) a new contractor replaces the one to which the contracting authority had initially awarded the contract in cases other than those provided for in Rule 28(1)(d).</del>
<b>Supplier</b>	A person or body of persons providing, or seeking to provide, supplies, services or works to the Authority.
<b>Tender</b>	A Candidate's proposal submitted in response to an Invitation to Tender.
<b>Threshold</b>	<u>Means the values set by the European Commission, or such other Government or Regulatory body, which determine whether a procurement has to be carried out in accordance with the Regulations (except Part 4 of the Public Contracts Regulations which applies for procurements with a value of £25,000 and above).</u>

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## Part 4 - Rules of Procedure

### CABINET PROCEDURE RULES

#### 1. HOW DOES THE CABINET OPERATE?

##### 1.01 Who May Make Executive Decisions?

The arrangements for the discharge of Executive functions may be set out in the Executive Arrangements adopted by the Council. If they are not set out there, then the Leader of the Council (herein after referred to as the Leader) may decide how they are to be exercised. In either case, the arrangements or the Leader may provide for Executive functions to be discharged by:

- (i) the Cabinet as a whole;
- (ii) a committee of the Cabinet;
- (iii) an individual Member of the Cabinet;
- (iv) an officer;
- (v) an Area Committee;
- (vi) joint arrangements; or
- (vii) another Local Authority.

##### 1.02 Delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's Scheme of Delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- (i) the names, addresses and wards of the people appointed to the Cabinet by the Leader;
- (ii) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- (iii) the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of the Cabinet Members appointed to them;
- (iv) the nature and extent of any delegation of Executive functions to Area Committees, any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint Committee for the coming year; and
- (v) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

##### 1.03 Sub-Delegation of Cabinet Functions

- (a) Where the Cabinet, a Committee of the Cabinet or an individual Member of the Cabinet is responsible for an Executive function, they may delegate further to an Area Committee, joint arrangements or an officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Committee of the Cabinet or to an officer.
- (c) Unless the Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- (d) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated the function.

##### 1.04 The Council's Scheme of Delegation and Executive Functions

## Part 4 - Rules of Procedure

- (a) Subject to (b) below the Council's Scheme of Delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) The Leader is able to decide whether to delegate Executive functions, and he/she may amend the Scheme of Delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Head of Paid Service and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body, Committee or the Cabinet as a whole. The Head of Paid Service will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chair.

### 1.05 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an Executive function has been delegated to a Committee of the Cabinet, an individual Member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

### 1.06 Cabinet Meetings - When and Where?

The Cabinet will meet at least nine times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

### 1.07 August Recess

There shall be a recess for the period of the month of August and during this period no meeting of the Council, the Cabinet or of any Committee of it shall be held except to transact business of urgency, the transaction of which cannot with propriety be postponed.

### 1.08 Quorum

The quorum for a meeting of the Cabinet, or a Committee of it, shall be two, one of whom must be the Leader or Deputy Leader.

### 1.09 How are Decisions to be taken by the Cabinet?

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a Committee of the Cabinet, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## 2. HOW ARE CABINET MEETINGS CONDUCTED?

## Part 4 - Rules of Procedure

### 2.01 Who Presides?

If the Leader is present he/she will preside. In his/her absence, then a person appointed to do so by those present shall preside.

### 2.02 Who may Attend?

Cabinet meetings (but not briefing meetings) will be open to 'non-Cabinet Councillors' and members of the public.

### 2.03 What Business?

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

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Cabinet (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in part 4 of this Constitution;
- (iv) consideration of reports from the Overview and Scrutiny Committee; and
- (v) matters set out in the agenda for the meeting, and which shall indicate which are Key Decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution;
- (vi) matters for information or future report.

### 2.04 Consultation

All reports to the Cabinet or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### 2.05 Who can put Items on the Cabinet Agenda

The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a Committee of it or any Member or officer in respect of that matter. The Head of Paid Service will comply with the Leader's requests in this respect.

- (i) Any Member of the Cabinet may require the Head of Paid Service to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request the Head of Paid Service will comply.
- (ii) The Head of Paid Service will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where the Overview and Scrutiny Committee or the Full Council have resolved that an item be considered by the Cabinet. However, there may only be up to three such items on any one agenda.
- (iii) Any Member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. [This



## Part 4 - Rules of Procedure

individual will be invited to attend the meeting, whether or not it is a public meeting.] However, there may only be up to three such items per Cabinet meeting.

- (iv) The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Head of Paid Service to call such a meeting in pursuance of their statutory duties. In other circumstances where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

### 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 Managing Director
  - The appropriate Corporate Director
  - The Council Solicitor
  - The S151 Officer
  - The Policy and Governance Manager
  - 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 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 and Electoral Services Team.

## Part 4 - Rules of Procedure

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- 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.

## Part 4 - Rules of Procedure

### OVERVIEW AND SCRUTINY PROCEDURE RULES

#### 1. WHAT WILL BE THE NUMBER AND ARRANGEMENTS FOR OVERVIEW AND SCRUTINY COMMITTEE?

The Council will have one Overview and Scrutiny Committee as set out in Article 6. The Committee can appoint Task and Finish Groups.

The Council will appoint an Overview and Scrutiny Committee to:

- (i) Co-ordinate, champion and lead on the scrutiny of Council and Executive decisions.
- (ii) Have all of the functions, powers and duties conferred by Section 21 of the Local Government Act 2000 (as amended).
- (iii) Determine the allocation of work in the event that the scope of the subject matter of a scrutiny study or investigation overlaps the role of more than one Sub-Committee or Task and Finish Group.
- (iv) Review the operation of the scrutiny process and work programmes of the Overview and Scrutiny Sub Committees and Task and Finish Groups and inform and advise Council in relation to priorities and the allocation of resources.
- (v) Oversee and review the resources, support, training and development of Overview and Scrutiny Members.
- (vi) Develop a positive “critical friend” approach to the role of scrutiny of the Council and Community issues.
- (vii) Provide and co-ordinate the input to an annual report to Full Council on such issues or topics as the Committee sees fit.
- (viii) Give consideration to the management of matters called in for review under paragraph 14 of the Overview and Scrutiny Procedure Rules.
- (ix) Give consideration to matters referred to it by the Councillors' Call for Action.
- (x) Review and scrutinise the work of the Executive.
- (xi) Review and scrutinise the content of the Forward Plan.
- (xii) Review and scrutinise the policies of the Council.
- (xiii) Consider any matters which affect the authority, the City of Gloucester (or part of it) or its inhabitants (or some of them).

#### 2. WHO MAY SIT ON OVERVIEW AND SCRUTINY COMMITTEE?

The Committee will comprise of 15 Members, however, all Councillors (except Members of the Cabinet) may be Members of the Overview and Scrutiny Committee. No Member may be involved in scrutinising a decision which he/she has been directly involved.

#### 3. MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEE

There shall be at least eleven ordinary meetings of the Overview and Scrutiny Committee in each year and in addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chair of the Overview and Scrutiny Committee, by any five Members of the Committee or by the Head of Paid Service if he/she considers it necessary or appropriate.

#### 4. QUORUM

The quorum for the Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

#### 5. WHO CHAIRS OVERVIEW AND SCRUTINY COMMITTEE MEETINGS?

The appointment of Chairs and Vice-Chairs of Overview and Scrutiny Committee will be determined by the Council at its Annual Meeting.

## Part 4 - Rules of Procedure

### 6. WORK PROGRAMME

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

### 7. AGENDA ITEMS

Any five Members of the Council who are not Members of the Overview and Scrutiny Committee may give written notice to the Head of Paid Service that they wish an item to be included on the agenda of the Overview and Scrutiny Committee. If the Head of Paid Service receives such notification, then he/she will include the item on the first available agenda of the Overview and Scrutiny Committee for consideration by the Committee.

The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee within one month of receiving it.

### 8. POLICY REVIEW AND DEVELOPMENT

(a) The role of the Overview and Scrutiny Committee in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.

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

(c) The Overview and Scrutiny Committee may hold inquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisors, assessors and witnesses a reasonable fee and expenses for doing so.

### 9. REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEE

(a) Once it has formed recommendations on proposals for development of the Council's Budget and Policy Framework, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Head of Paid Service for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).

(b) If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

(c) The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee within one month of it being submitted to the Head of Paid Service.

## Part 4 - Rules of Procedure

### 10. MAKING SURE THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY THE CABINET

Once an Overview and Scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of four weeks from the date the report was adopted by the Overview and Scrutiny Committee. In such cases, the report of the Overview and Scrutiny Committee shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the Overview and Scrutiny report within ten weeks then the matter will be referred to Council for review, and the Head of Paid Service will call a Council meeting to consider the report and make a recommendation to the Cabinet.

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

### 11. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

- (a) In addition to their rights as Councillors, Members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

### 12. MEMBERS AND OFFICERS GIVING ACCOUNT

- (a) The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Cabinet Member, the Head of Paid Service and/or any senior officer to attend before it to explain, in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) the Council's or the Officer's performance;

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

- (b) Where any Member or officer is required to attend the Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Head of Paid Service. The Head of Paid Service shall inform the Member or officer in writing, giving at least five working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, or documentation, then the Member or officer concerned will be given sufficient notice to allow for preparation of that report or documentation.

## Part 4 - Rules of Procedure

- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with the Member or officer, arrange an alternative date for attendance.

### 13. ATTENDANCE BY OTHERS

The Overview and Scrutiny Committee may invite other than those referred to in paragraph 12 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall be able to invite such people to attend.

### 14. CALL-IN

Call-in should only be used in exceptional circumstances, such as where Members have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 12 (Decision Making).

- (a) When a decision is made by the Cabinet, an individual Cabinet Member or a Committee of the Cabinet, or an Executive decision is made by an officer with delegated authority from the Cabinet, or an Area Committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two days of being made. The Chair of Overview and Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) The Minutes will indicate whether matters are subject to delegated action by officers (and if so whom) or for decision by the Council.
- (c) Where it is considered that the proposed action is contrary to, or not in accordance with, the Council's policy, or the Cabinet, individual Cabinet Member or an Officer acting under delegated authority from the Cabinet did not take the decision in accordance with the principles set out in Article 12 (Decision Making) or was contrary to officer advice, then the following call in arrangements will apply:-
- The Head of Paid Service, in consultation with the Policy and Governance Manager, must agree that the call-in complies with the criteria set out in the Constitution in order that it can proceed.
  - Within five working days of the publication of an Executive decision, any five Members of the Council may request reference of the minute to the Overview and Scrutiny Committee for consideration.
  - The request shall be communicated to the Head of Paid Service in writing and signed by at least five Members, or by separate communication in the same terms by five Members. As an alternative, the request may be communicated separately in electronic form provided that the Head of Paid Service is satisfied with proof of identity of each individual Member.
  - The Head of Paid Service will, as soon as practicable, communicate the request to:-
    - the relevant officer identified in the Minute
    - the Overview and Scrutiny Committee Chair (or Vice Chair in their absence).
    - the Leader of the Council or Deputy Leader in their absence.
  - Upon receipt of notification the Chair (or Vice Chair) shall convene a special meeting of the Overview and Scrutiny Committee within ten working days of the date of notification by the Head of Paid Service, unless there is a meeting

## Part 4 - Rules of Procedure

of the Committee already programmed within twenty-one days of the notification, in which case the matter shall be referred to that programmed meeting.

- When the Executive decision comes before the Overview and Scrutiny Committee, the following persons shall have a right to attend and to speak at the Committee:-
    - any one or more Members having requested the call-in;
    - the Leader, the Deputy Leader and/or the relevant Cabinet Member having portfolio responsibility for the matter under consideration.
  - The Overview and Scrutiny Committee shall be entitled to receive copies of any reports as set out in the Access to Information Procedure Rules in Part 4 of the Constitution.
  - In the event of a call-in of a Cabinet Minute the relevant officer shall not exercise his/her delegated powers on the matter before it has been considered by the Overview and Scrutiny Committee and re-considered by the Cabinet in light of the Overview and Scrutiny Committee's conclusions and any recommendations.
  - No matter which has been the subject of a call-in may be subject to a second call-in.
- (d) Where an Executive decision has been taken by an Area Committee then the right of call-in shall extend to any other Area Committee which resolves to refer a decision which has been made but not implemented to the Overview and Scrutiny Committee for consideration in accordance with these provisions. An Area Committee may only request the Head of Paid Service to call-in the decision if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call-in shall apply as if the call-in had been exercised by Members of the Overview and Scrutiny Committee.

### 15. CALL-IN AND URGENCY

The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would (e.g.) seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as an urgent matter. In the absence of the Chair of the Overview and Scrutiny Committee, the Vice Chair of the Overview and Scrutiny Committee's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

### 16. COUNCILLOR CALL FOR ACTION

The 'Councillor Call for Action' is a new method of dispute resolution, introduced by the Local Government and Public Involvement in Health Act 2007. Councillors are able to bring matters forward for investigation by a specially convened meeting of the Overview and Scrutiny Committee, provided the following terms are met:

## Part 4 - Rules of Procedure

- i) all other means of resolving the dispute have been explored and exhausted;
- ii) the matter in question applies to a specific locality;
- iii) the involvement of scrutiny has a demonstrable potential impact on the matter;
- iv) the complaint is not ruled to be vexatious, discriminatory or unreasonable by the Overview and Scrutiny Committee.

Should this be the case, then an investigation will be conducted, involving input from as many sources affected by the issues as possible. Once the hearings have been completed, the Committee will consider its ruling, and publish a report detailing its findings on the matter. Whilst this may detail the recommended actions to be taken by Council, it may also decide to refer the matter to another body, or indeed not to issue a report (although these last two options must be justified in full).

### 17. THE PARTY WHIP

When considering any matter in respect of which a Member of the Overview and Scrutiny Committee is subject to a party whip the Member must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### 18. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS

- (a) Overview and Scrutiny Committee shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) consideration of any matter referred to the committee for a decision in relation to call-in of a decision;
  - (iv) responses of the Cabinet to reports of the Overview and Scrutiny Committee; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where there are speakers for the Public Questions agenda item at any meeting of the Overview and Scrutiny Committee, the Chair shall have discretion to allow the speakers to ask their question at the most appropriate time during the meeting.
- (c) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which will be conducted in accordance with the following principles:
  - (i) the investigation be conducted fairly and all Members of the Committee will be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (iii) the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

### 19. TERMS OF REFERENCE FOR OVERVIEW AND SCRUTINY COMMITTEE



## Part 4 - Rules of Procedure

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The terms of reference for the Overview and Scrutiny Committee are contained in Article 6 - Overview and Scrutiny Committee.

**20. OVERVIEW AND SCRUTINY BUDGETS**

The Overview and Scrutiny Committee will be provided with sufficient budget resource in order to carry out its functions and to pay any reasonable fee or expense in respect of the overview and scrutiny process. The Head of Paid Service will act as the Cost Centre Manager for that budget.

## Part 4 - Rules of Procedure

### 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, record and report all meetings subject only to the exceptions in these rules. Members of the public who wish to report or record public meetings are required to comply with the Council's Protocol on Recording at Meetings and such reporting and recording must be conducted in such a manner as not to disrupt the conduct of the meeting's business. The authority will not permit the recording or reporting of proceedings where the public are not allowed to attend the meeting or that part of the meeting by reason of the likely disclosure of exempt or confidential information.

**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 Herbert Warehouse, The Docks, Gloucester, GL1 2EQ 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 Head of Paid Service 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 from 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 Head of Paid Service 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:

## Part 4 - Rules of Procedure

- (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;
- (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 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 Herbert Warehouse, The Docks, Gloucester, GL1 2EQ.

### 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) (Variation) 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.

## Part 4 - Rules of Procedure

### 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.

### 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.

#### 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

## Part 4 - Rules of Procedure

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

### 14. THE FORWARD PLAN

#### 14.01 Period of Forward Plan

Forward Plans will be prepared to cover a period of twelve months. They will be prepared on at least a monthly basis.

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

## Part 4 - Rules of Procedure

- (c) where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and details of membership;
- (d) the date on which, or the period within which, the decision will be taken;
- (e) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (f) the means by which any such consultation is proposed to be undertaken;
- (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
- (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 the Overview and Scrutiny Committee has the opportunity to respond in relation to the consultation process. These arrangements are set out in the section headed Budget and Policy Framework Procedure Rules.

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

Where the publication of the intention to make a Key Decision under Rule 13 above is impracticable, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) where the Head of Paid Service 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, of the matter about which the decision is to be made;
- (b) where the Head of Paid Service has made available at the offices of the Council for inspection by the public and published on the Council's website, a copy of that notice; and
- (c) after five clear days have elapsed since the Head of Paid Service made available the notice referred to in (b).

As soon as reasonably practicable after the Head of Paid Service has complied with (a), (b) and (c), he/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.

### 16. SPECIAL URGENCY

Where the date by which a Key Decision must be made makes compliance with Rule 15 (general exception) impracticable, the decision may only be taken if the decision maker has obtained agreement from the Chair of the Overview and Scrutiny Committee that the making of the decision is urgent and cannot reasonably be deferred. If there is no Chair of the Overview and Scrutiny Committee, or if the Chair of 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:

## Part 4 - Rules of Procedure

- (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.

### 17. REPORT TO COUNCIL

#### 17.01 When the Overview and Scrutiny Committee can Require a Report

If the Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not 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 Head of Paid Service, 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 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 the decision and the reasons for the decision, the individual or body making the decision, and if the 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 particulars of each decision 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 any meeting of the Cabinet or any of its Committees, whether held in public or private, the Head of Paid Service or, where no officer was present, the person presiding at the meeting, will produce a written statement for every decision made including:

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

### 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.

## Part 4 - Rules of Procedure

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

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 Council's website. 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 rule 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 Record of Individual Decision

As soon as reasonably practicable after a Cabinet decision has been taken by an individual Cabinet Member or an Executive decision has been taken by an officer, he/she will prepare, or instruct the Head of Paid Service to prepare, a written statement of the decision including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) 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 any 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 above; and
- (b) any report considered by the individual member or officer and relevant to a decision recorded in accordance with Rule 21.1 above.

This does not require the disclosure of exempt or confidential information or advice from a political assistant.



## Part 4 - Rules of Procedure

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 Cabinet Member;
- (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 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), (b) or (c) below applies.

- (a) it contains confidential information; or
- (b) it contains exempt information falling within paragraphs 1, 2, 4, 5, 7 of the categories of exempt information; or
- (c) it contains the advice of a political advisor or assistant.

#### 23.2 Nature of Rights

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

## Part 4 - Rules of Procedure

### ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS UNDER THE LOCALISM ACT 2011

#### 1 Context

- 1.01** These “Arrangements” set out how you may make a complaint that an elected or co-opted Member of this Council or of Quedgeley Town Council has failed to comply with the **relevant** Council’s Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council’s Code of Conduct.
- 1.02** Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member or co-opted Member of the Council or of Quedgeley Town Council, or of a Committee or Sub-Committee of the Council, has failed to comply with the relevant authority’s Code of Conduct can be investigated and decisions made on such allegations.
- 1.03** Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a Member or a Member or co-opted Member of Quedgeley Town Council against whom an allegation as been made.

#### 2 The Code of Conduct

- 2.01** The Council has adopted a Code of Conduct for Members, which is set out in Part 5 of this Constitution and is available for inspection on the Council’s website and on request from Reception at Herbert Warehouse, The Docks.
- 2.02** Quedgeley Town Council is also required to adopt a Code of Conduct. If you wish to inspect Quedgeley Town Council’s Code of Conduct, you should inspect the Town Council’s website or request the town clerk to allow you to inspect the Town Council’s Code of Conduct.

#### 3 Making a complaint

- 3.01** If you wish to make a complaint, please write or email to –

The Monitoring Officer  
Gloucester City Council  
Herbert Warehouse  
The Docks  
Gloucester  
GL1 2EQ

Or –

[democratic.services@gloucester.gov.uk](mailto:democratic.services@gloucester.gov.uk)

A copy of the Complaint form is available on the Council’s website and on request from Democratic and Electoral Services at Herbert Warehouse, The Docks.

- 3.02** The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the register of Members’ interests and who is responsible for administering the system in respect of complaints of Member misconduct.

## Part 4 - Rules of Procedure

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the Council's website, next to the Code of Conduct, and is available on request from Reception at Herbert Warehouse, The Docks.

**3.03** Please provide us with your name and a contact postal address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

**3.04** The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

### **4 Will your complaint be investigated?**

**4.01** The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

**4.02** Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the Member against whom your complaint is directed. Where your complaint relates to a Quedgeley Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.

**4.03** In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the Member or the Council make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

**4.04** If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies. In some cases at his or her discretion, the Monitoring Officer may refer the complaint to the Audit and Governance Committee to decide whether or not it should be investigated or other action taken.

### **5 How is the investigation conducted?**

**5.01** The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix One to these arrangements.

**5.02** If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

## Part 4 - Rules of Procedure

- 5.03** The Investigating Officer would normally write to the Member against whom you have complained and provide him/her with a copy of your complaint. The Investigating Officer would also ask the Member to provide his/her explanation of events, and identify what documents he/she needs to see and who he/she needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Member, or delay notifying the Member until the investigation has progressed to a stage where notifying the Member of your name and address is appropriate.
- 5.04** At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matter in that draft report with which you disagree or which you consider requires more consideration.
- 5.05** Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.
- 6** **What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**
- 6.01** The Monitoring Officer will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned and to Quedgeley Parish Council, where your complaint relates to a Quedgeley Parish Councillor, notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.
- 7** **What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**
- 7.01** The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.
- (a) Local Resolution**
- (a)(i)** The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit and Governance Committee and the Parish Council for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer may (but does not have to) refer the matter for a local hearing.
- (b) Local Hearing**

## Part 4 - Rules of Procedure

- (b)(i) If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the Member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.
- (b)(ii) The Council has agreed a procedure for local hearings, which is attached as Appendix Two to these arrangements.
- (b)(iii) Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the Member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.
- (b)(iv) The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the Member did fail to comply with the Code of Conduct, the Chair will inform the Member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the Member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

### **8 What action can the Hearings Panel take where a Member has failed to comply with the Code of Conduct?**

**8.01** The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

- (a) Censure or reprimand the Member;
- (b) Publish its findings in respect of the Member's conduct;
- (c) Report its findings to Council or to the Parish Council for information;
- (d) Recommend to the Member's Group Leader (or in the case of un-grouped Members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- (e) Recommend to the Leader of the City Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- (f) Recommend to City Council that the Member be replaced as Executive Leader;
- (g) Instruct the Monitoring Officer to or recommend that the Parish Council arrange training for the Member;

## Part 4 - Rules of Procedure

- (h) Remove, or recommend to the Parish Council that the Member be removed, from all outside appointments to which he/she has been appointed or nominated by the City Council or by the Parish Council;
- (i) Withdraw, or recommend to the Parish Council that it withdraws, facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or
- (j) Exclude, or recommend that the Parish Council exclude, the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

**8.02** The Hearings Panel has no power to suspend or disqualify the Member or to withdraw Members' or special responsibility allowances.

### **9 What happens at the end of the hearing?**

**9.01** At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

**9.02** As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the Member and to the Parish Council, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

### **10 Who are the Hearings Panel?**

**10.01** The Hearings Panel is a Sub-Committee of the Council's Audit and Governance Committee. The Audit and Governance Committee has decided that it will comprise a maximum of three members of the Audit and Governance Committee.

**10.02** The Independent Person is invited to attend all meetings of the Hearings Panel and his/her views are sought and taken into consideration before the Hearings Panel takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

### **11 Who is the Independent Person?**

**11.01** The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the Members of Council.

### **12 Revision of these arrangements**

**12.01** The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

### **13 Appeals**

**13.01** There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer or of the Hearings Panel.

## Part 4 - Rules of Procedure

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**13.02** If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

**Appendix One :** Criteria for undertaking Investigations

**AppendixTwo :** Procedure for Hearings

## Part 4 - Rules of Procedure

### APPENDIX ONE

#### CRITERIA FOR DETERMINING IF COMPLAINT WARRANTS INVESTIGATION

- Q. Has the complainant submitted enough information to satisfy the Monitoring Officer and/or Hearings Panel that the complaint should be referred for investigation or other action?**

If the answer is No, no further action will be taken.

- Q. Has the complainant already been the subject of an investigation or other action or has the complaint been the subject of an investigation by other regulatory authorities?**

If the answer is Yes, then it is likely that no further action will be taken if there is nothing to be gained by further action being taken.

- Q. Is the complaint about something that happened so long ago that there would be little benefit in taking action now?**

If the answer is Yes, the complaint is unlikely to be investigated.

- Q. Is the complaint too trivial to warrant further action?**

If the answer is Yes, the matter will not warrant further action.

- Q. Does the complaint appear to be malicious, politically motivated or tit for tat?**

If the answer is Yes, the matter is unlikely to be investigated but further action may be considered particularly where it appears that a town or parish council has become dysfunctional.

- Q. Is the complaint anonymous?**

If the answer is Yes, no further action will be taken other than in exceptional circumstances.

- Q. Would an investigation serve any public benefit?**

If the answer is No, an investigation is unlikely to be undertaken but other appropriate action may be considered.



## Part 4 - Rules of Procedure

### APPENDIX TWO

#### PROCEDURE FOR CONDUCTING HEARINGS

1. Chairman opens hearing:
  - (i) Introduces the Members of the Hearing Panel and the other parties present (Member against whom complaint made, Investigating Officer and other officers).
  - (ii) Explains procedure as follows: *“The Investigating Officer will give a summary of their report and their conclusions. The Member who is the subject of the investigation can then ask questions of the Investigating Officer. The Panel may also wish to ask questions. The Subject Member will then present their case. The Investigating Officer may wish to ask questions of the Subject Member. The Panel may also wish to ask further questions. At the end of this process the Panel will ask the parties to leave whilst they consider their conclusions on the facts and on whether there has been a breach of the code. The parties will then be asked to return and to make representations on what sanctions should be imposed if we decide that there has been a breach”.*
2. Chairman asks Members of the Panel if they have any interests to declare.
3. Chairman invites Investigating Officer to present summary of their report.
4. Chairman invites Subject Member to question Investigating Officer.
5. Chairman invites Members of Panel to question Investigating Officer.
6. Chairman invites Subject Member to present their case.
7. Chairman invites Investigating Officer to question Member.
8. Chairman invites Members of Panel to question Member.
9. Chairman asks parties to leave room so that Panel can retire in private to:
  - (a) Reach its conclusions on the facts;
  - (b) Decide if there has been a breach of the code.
10. Parties are invited to come back to the room.
11. Chairman advises parties of conclusions reached.
12. Chairman (where appropriate if there is a breach) invites firstly Investigating Officer then Subject Member to give their views on what sanction should be imposed. Chairman may seek legal advice.
13. Chairman asked parties to leave room whilst Panel sits in private to decide on appropriate sanctions.
14. Parties invited to return.
15. Chairman advises parties of decision. Informs parties that it will be confirmed in writing in the next few days.
16. Chairman closes hearing and thanks everybody for their attendance.

## OFFICER EMPLOYMENT PROCEDURE RULES

## Part 4 - Rules of Procedure

(Revised 2009)

### 1. Recruitment and Appointment

- (a) Declarations
  - (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council, or of the partner of such persons.
  - (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Head of Service or an officer nominated by him/her.
- (b) Seeking support for appointment
  - (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
  - (ii) No Councillor will seek support for any person for any appointment with the Council.
  - (iii) No Councillor shall provide a reference for any person applying for a post within the Council.

### 2. Recruitment of Head of Paid Service, Chief Officers and Statutory Officers

Where the Council proposes to appoint a Head of Paid Service, Chief Officer or other Statutory Officer, the Council will:

- (a) Draw up a statement specifying:
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) Make arrangements for a copy of the statement mentioned in paragraph 1 to be sent to any person on request.

'Chief Officer' and 'Head of Paid Service' shall have the same meaning as in Section 2 of the Local Government and Housing Act 1989.

### 3. Appointment of Head of Paid Service

The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Senior Appointments Committee

### 4. Appointment of Chief Officers and Statutory Officers

- (a) The Senior Appointments Committee of the Council will appoint Chief Officers and Statutory Officers.
- (b) An offer of employment as a Chief Officer or Statutory Officer shall only be made where no well-founded objection from any Cabinet Member has been received.

### 5. Other Appointments

## Part 4 - Rules of Procedure

- (a) **Officers below Chief Officer level.** Appointment of officers below Chief Officer level (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

### 6. Disciplinary Action

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer or S151 Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay for as short a period as possible.
- (b) Councillors will not be involved in the disciplinary action against any officer below Chief Officer level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of disciplinary action.

### 7. Dismissal

- (a) In this paragraph:
  - i. 'the 2011 Act' means the Localism Act 2011;
  - ii. 'S151 Officer', 'disciplinary action', 'Head of the authority's Paid Service' and 'Monitoring' have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
  - iii. 'Independent Person' means a person appointed under Section 28(7) of the 2011 Act;
  - iv. 'local government elector' means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts;
  - v. 'the Panel' means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
  - vi. 'relevant meeting' means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer;
  - vii. 'relevant officer' means the S151 Officer, Head of the authority's Paid Service or Monitoring Officer, as the case may be;
- (b) A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.
- (c) The authority must invite relevant Independent Persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
- (d) In paragraph 7(c) above, 'relevant Independent Person' means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such Independent Persons as have been appointed by another authority or authorities as the authority considers appropriate.
- (e) Subject to paragraph 7(f) below, the authority must appoint to the Panel such relevant Independent Persons who have accepted an invitation issued in accordance with paragraph 7(c) above in accordance with the following priority order:
  - i. A relevant Independent Person who has been appointed by the authority and who is a local government elector;
  - ii. Any other relevant Independent Person who has been appointed by the authority;

## Part 4 - Rules of Procedure

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- iii. A relevant Independent Person who has been appointed by another authority or authorities.
- (f) An authority is not required to appoint more than two relevant Independent Persons in accordance with paragraph 7(e) above but may do so.
- (g) The authority must appoint any Panel at least 20 working days before the relevant meeting.
- (h) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular –
  - i. Any advice, views or recommendations of the Panel;
  - ii. The conclusions of any investigation into the proposed dismissal; and
  - iii. Any representations from the relevant officer.
- (i) Any remuneration, allowances or fees paid by the authority to an Independent Person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of that person's role as Independent Person under the 2011 Act.
- (j) Councillors will not be involved in the dismissal of any officer below Chief Officer level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.

## Part 5 – Codes and Protocols

### Page

Code of Governance .....	2
Members' Code of Conduct .....	14
Declaring Interests Flowchart .....	26
Officers' Code of Conduct .....	27
Protocol on Member / Officer Relations .....	33
Monitoring Officer's Protocol .....	39
Protocol Relating to the Independent Person .....	42
Planning and Development - Code of Practice .....	45
Probity in Licensing and Enforcement - Code of Practice .....	63
Protocol on Recording at Meetings .....	77
Members' Working Groups Protocol .....	79

[Petitions?](#)

## Part 5 - Codes and Protocols

### Code of Corporate Governance (revised 2017)

#### Introduction

The Council's Code of Corporate Governance is based upon the CIPFA / SOLACE publication entitled "Delivering Good Governance in Local Government: Framework 2016 Edition."

#### What do we mean by Governance?

'The International Framework: Good Governance in the Public Sector' defines 'governance' as comprising the arrangements (including political, economic, social, environmental, administrative, legal and other arrangements) put in place to ensure that the intended outcomes for stakeholders are defined and achieved. The Framework also states that to deliver good governance in the public sector both governing bodies and individuals working for them must aim to achieve the Council's objectives while acting in the public interest at all times.

#### Core Principles

The Council's Code of Corporate Governance is based on seven core principles:-

1. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law;
2. Ensuring openness and comprehensive stakeholder engagement;
3. Defining outcomes in terms of sustainable economic, social, and environmental benefits;
4. Determining the interventions necessary to optimize the achievement of the intended outcomes;
5. Developing the Council's capacity, including the capability of its leadership and the individuals within it;
6. Managing risks and performance through robust internal control and strong public financial management; and
7. Implementing good practices in transparency, reporting, and audit to deliver effective accountability.

The Code specifically identifies the actions and behaviours taken by the Council in relation to each of these core principles and associated sub principles. The Code, along with its supporting infrastructure is set out below at Appendix A and is summarised in diagrammatic form in Appendix B.

The Audit and Governance Committee is currently responsible for approving this Code and ensuring it is annually reviewed and updated accordingly.

## Part 5 - Codes and Protocols

### Appendix A - Actions and behaviours taken by the Council that demonstrate good governance

Principle	Sub Principles	Council Actions and Behaviours
<b>(A) Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law</b> Page 199	<b>Behaving with integrity</b>	<ul style="list-style-type: none"> <li>▪ Ensure that Members and Officers behave with integrity and lead a culture where acting in the public interest is visible and consistently demonstrated thereby protecting the reputation of the Council;</li> <li>▪ Ensure that Members take the lead in establishing specific standard operating principles or values for the Council and its staff and that they are communicated and understood. These will build on the Seven Principles of Public Life (The Nolan Principles);</li> <li>▪ Lead by example and use the above standard operating principles or values as a framework for decision making and other actions; and</li> <li>▪ Demonstrate, communicate and embed the standard operating principles or values through appropriate policies and processes which will be reviewed on a regular basis to ensure they are operating effectively.</li> </ul>
	<b>Demonstrating strong commitment to ethical values</b>	<ul style="list-style-type: none"> <li>▪ Seek to establish, monitor and maintain the Council's ethical standards and performance;</li> <li>▪ Underpin personal behaviour with ethical values and ensure they permeate all aspects of the Council's culture and operation;</li> <li>▪ Develop and maintain robust policies and procedures which place emphasis on agreed ethical values; and</li> <li>▪ Ensure that external providers of services on behalf of the organisation are required to act with integrity and in compliance with ethical standards expected by the Council.</li> </ul>
	<b>Respecting the Rule of Law</b>	<ul style="list-style-type: none"> <li>▪ Ensure Members and staff demonstrate a strong commitment to the rule of the law as well as adhering to relevant laws and regulations;</li> <li>▪ Create the conditions to ensure that the statutory officers, other key post holders, and Members are able to fulfil their responsibilities in accordance with legislative and regulatory provisions;</li> <li>▪ Strive to optimise the use of the full powers available for the benefit of citizens, communities and other stakeholders;</li> <li>▪ Deal with breaches of legal and regulatory provisions effectively; and</li> <li>▪ Ensure corruption and misuse of power is dealt with effectively.</li> </ul>

## Part 5 - Codes and Protocols

Principle	Sub Principles	Council Actions and Behaviours
<b>(B) Ensuring openness and comprehensive stakeholder engagement</b>  Page 200	<b>Openness</b>	<ul style="list-style-type: none"> <li>▪ Ensure an open culture through demonstrating, documenting and communicating the Council's commitment to openness;</li> <li>▪ Make decisions that are open about actions, plans, resource use, forecasts, outputs and outcomes. The presumption will be for openness. If that is not the case, a justification for the reasoning for keeping a decision confidential will be provided;</li> <li>▪ Provide clear reasoning and evidence for decisions in both public records and explanations to stakeholders and will be explicit about the criteria, rationale and considerations used. In due course, the Council will ensure that the impact and consequences of those decisions are clear; and</li> <li>▪ Use formal and informal consultation and engagement to determine the most appropriate and effective interventions / courses of action.</li> </ul>
	<b>Engaging comprehensively with institutional stakeholders</b>	<ul style="list-style-type: none"> <li>▪ Effectively engage with institutional stakeholders to ensure that the purpose, objectives and intended outcomes for each stakeholder relationship are clear so that outcomes are achieved successfully and sustainably;</li> <li>▪ Develop formal and informal partnerships to allow for resources to be used more efficiently and outcomes achieved more effectively; and</li> <li>▪ Ensure that partnerships are based on trust, a shared commitment to change, a culture that promotes and accepts challenge among partners and that the added value of partnership working is explicit.</li> </ul>
	<b>Engaging stakeholders effectively, including individual citizens and service users</b>	<ul style="list-style-type: none"> <li>▪ Establish a clear policy on the type of issues that the Council will meaningfully consult with or involve communities, individual citizens, service users and other stakeholders to ensure that service (or other) provision is contributing towards the achievement of intended outcomes;</li> <li>▪ Ensure that communication methods are effective and that Members and Officers are clear about their roles with regard to community engagement;</li> <li>▪ Encourage, collect and evaluate the views and experiences of communities, citizens, service users and organisations of different backgrounds including reference to future needs;</li> <li>▪ Implement effective feedback mechanisms in order to demonstrate how their views have been taken into account;</li> <li>▪ Balance feedback from more active stakeholder groups with other stakeholder groups to ensure inclusivity; and</li> <li>▪ Take account of the interests of future generations of tax payers and service users.</li> </ul>



## Part 5 - Codes and Protocols

Principle	Sub Principles	Council Actions and Behaviours
(C) Defining outcomes in terms of sustainable economic, social and environmental benefits Page 201	<b>Defining outcomes</b>	<ul style="list-style-type: none"> <li>▪ Have a clear vision, which is an agreed formal statement of the Council's purpose and intended outcomes containing appropriate performance indicators, which provides the basis for the Council's overall strategy, planning and other decisions;</li> <li>▪ Specify the intended impact on, or changes for, stakeholders including citizens and service users. It could be immediately or over the course of a year or longer;</li> <li>▪ Deliver defined outcomes on a sustainable basis within the resources that will be available;</li> <li>▪ Identify and manage risks to the achievement of outcomes; and</li> <li>▪ Manage service users' expectations effectively with regard to determining priorities and making the best use of the resources available.</li> </ul>
	<b>Sustainable economic, social and environmental benefits</b>	<ul style="list-style-type: none"> <li>▪ Consider and balance the combined economic, social and environmental impact of policies, plans and decisions when taking decisions about service provision;</li> <li>▪ Take a longer term view with regard to decision making, taking account of risk and acting transparently where there are potential conflicts between the Council's intended outcomes and short-term factors such as the political cycle or financial constraints;</li> <li>▪ Determine the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits, through consultation where possible, in order to ensure appropriate trade-offs; and</li> <li>▪ Ensure fair access to services.</li> </ul>

## Part 5 - Codes and Protocols

Principle	Sub Principles	Council Actions and Behaviours
(D) Determining the interventions necessary to optimise the achievement of the intended outcomes Page 202	Determining interventions	<ul style="list-style-type: none"> <li>Ensure decision makers receive objective and rigorous analysis of a variety of options indicating how intended outcomes would be achieved and including the risks associated with those options. Therefore ensuring best value is achieved however services are provided; and</li> <li>Consider feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources available including people, skills, land and assets and bearing in mind future impacts.</li> </ul>
	Planning interventions	<ul style="list-style-type: none"> <li>Establish and implement robust planning and control cycles that cover strategic and operational plans, priorities and targets;</li> <li>Engage with internal and external stakeholders in determining how services and other courses of action should be planned and delivered;</li> <li>Consider and monitor risks facing each partner when working collaboratively including shared risks;</li> <li>Ensure arrangements are flexible and agile so that the mechanisms for delivering outputs can be adapted to changing circumstances;</li> <li>Establish appropriate key performance indicators (KPIs) as part of the planning process in order to identify how the performance of services and projects is to be measured;</li> <li>Ensure capacity exists to generate the information required to review service quality regularly;</li> <li>Prepare budgets in accordance with organisational objectives, strategies and the medium term financial plan; and</li> <li>Inform medium and long term resource planning by drawing up realistic estimates of revenue and capital expenditure aimed at developing a sustainable funding strategy.</li> </ul>
	Optimising achievement of intended outcomes	<ul style="list-style-type: none"> <li>Ensure the medium term financial strategy integrates and balances service priorities, affordability and other resource constraints;</li> <li>Ensure the budgeting process is all-inclusive, taking into account the full cost of operations over the medium and longer term;</li> <li>Ensure the medium term financial strategy sets the context for ongoing decisions on significant delivery issues or responses to changes in the external environment that may arise during the budgetary period in order for outcomes to be achieved while optimising resource usage; and</li> <li>Ensure the achievement of 'social value' through service planning and commissioning. The Public Services (Social Value) Act 2012 states that this is "the additional benefit to the community...over and above the direct purchasing of goods, services and outcomes".</li> </ul>

## Part 5 - Codes and Protocols

Principle	Sub Principles	Council Actions and Behaviours
(E) Developing the Council's capacity, including the capability of its leadership and the individuals within it Page 203	Developing the Council's capacity	<ul style="list-style-type: none"> <li>▪ Review operations, performance use of assets on a regular basis to ensure their continuing effectiveness;</li> <li>▪ Improve resource use through appropriate application of techniques such as benchmarking and other options in order to determine how the Council's resources are allocated so that outcomes are achieved effectively and efficiently;</li> <li>▪ Recognise the benefits of partnerships and collaborative working where added value can be achieved; and</li> <li>▪ Develop and maintain an effective workforce plan to enhance the strategic allocation of resources.</li> </ul>
	Developing the capability of the Council's leadership and other individuals	<ul style="list-style-type: none"> <li>▪ Develop protocols to ensure that elected and appointed leaders negotiate with each other regarding their respective roles early on in the relationship and that a shared understanding of roles and objectives is maintained;</li> <li>▪ Publish a statement that specifies the types of decisions that are delegated and those reserved for the collective decision making of the governing body;</li> <li>▪ Ensure the Leader and the Managing Director have clearly defined and distinctive leadership roles within a structure whereby the Managing Director leads the Council in implementing strategy and managing the delivery of services and other outputs set by Members and each provides a check and a balance for each other's authority;</li> <li>▪ Develop the capabilities of Members and senior management to achieve effective shared leadership and to enable the organisation to respond successfully to changing legal and policy demands as well as economic, political and environmental changes and risks by:               <ul style="list-style-type: none"> <li>➢ ensuring Members and staff have access to appropriate induction tailored to their role and that ongoing training and development matching individual and organisational requirements is available and encouraged;</li> <li>➢ ensuring Members and Officers have the appropriate skills, knowledge, resources and support to fulfil their roles and responsibilities and ensuring that they are able to update their knowledge on a continuing basis; and</li> <li>➢ ensuring personal, organisational and system-wide development through shared learning, including lessons learnt from governance weaknesses both internal and external.</li> </ul> </li> <li>▪ Ensure that there are structures in place to encourage public participation;</li> <li>▪ Take steps to consider the leadership's own effectiveness and ensure leaders are open to constructive feedback from peer review and inspections;</li> <li>▪ Hold staff to account through regular performance reviews which take account of training or development needs; and</li> <li>▪ Ensure arrangements are in place to maintain the health and wellbeing of the workforce and support individuals in maintaining their own physical and mental wellbeing.</li> </ul>

## Part 5 - Codes and Protocols

Principle	Sub Principles	Council Actions and Behaviours
(F) Managing risks and performance through robust internal control and strong public financial management Page 204	Managing Risk	<ul style="list-style-type: none"> <li>▪ Recognise that risk management is an integral part of all activities and must be considered in all aspects of decision making;</li> <li>▪ Implement robust and integrated risk management arrangements and ensure that they are working effectively; and</li> <li>▪ Ensure that responsibilities for managing individual risks are clearly allocated.</li> </ul>
	Managing Performance	<ul style="list-style-type: none"> <li>▪ Monitor service delivery effectively including planning, specification, execution and independent post implementation review;</li> <li>▪ Make decisions based on relevant, clear objective analysis and advice pointing out the implications and risks inherent in the Council's financial, social and environmental position and outlook;</li> <li>▪ Ensure an effective scrutiny or oversight function is in place which encourages constructive challenge and debate on policies and objectives before, during and after decisions are made thereby enhancing the Council's performance and that of any organisation for which it is responsible;</li> <li>▪ Provide Members and senior management with regular reports on service delivery plans and on progress towards outcome achievement; and</li> <li>▪ Ensure there is consistency between specification stages (such as budgets) and post implementation reporting (e.g. financial statements).</li> </ul>
	Robust internal control	<ul style="list-style-type: none"> <li>▪ Align the risk management strategy and policies on internal control with achieving objectives;</li> <li>▪ Evaluate and monitor the Council's risk management and internal control arrangements on a regular basis;</li> <li>▪ Ensure effective counter fraud and anti-corruption arrangements are in place;</li> <li>▪ Ensure additional assurance on the overall adequacy and effectiveness of the framework of governance, risk management and control is provided by the internal auditor;</li> <li>▪ Ensure an Audit and Governance Committee which is independent of the executive and accountable to the Council:                             <ul style="list-style-type: none"> <li>➢ provides a further source of effective assurance regarding arrangements for managing risk and maintaining an effective control environment; and</li> <li>➢ that its recommendations are listened to and acted upon.</li> </ul> </li> </ul>

## Part 5 - Codes and Protocols

Principle	Sub Principles	Council Actions and Behaviours
<b>(F) Implementing good practices in transparency, reporting and audit to deliver effective accountability</b> Page 205	<b>Implementing good practice in transparency</b>	<ul style="list-style-type: none"> <li>Write and communicate reports for the public and other stakeholders in a fair, balanced and understandable style appropriate to the intended audience ensuring that they are easy to access and interrogate; and</li> <li>Strike a balance between providing the right amount of information to satisfy transparency demands and enhance public scrutiny while not being too onerous to provide and for users to understand.</li> </ul>
	<b>Implementing good practices in reporting</b>	<ul style="list-style-type: none"> <li>Report at least annually on performance, value for money and the stewardship of its resources to stakeholders in a timely and understandable way;</li> <li>Ensure Members and senior management own the results;</li> <li>Ensure robust arrangements for assessing the extent to which the principles contained in this Framework have been applied and publish the results on this assessment including an action plan for improvement and evidence to demonstrate good governance (Annual Governance Statement);</li> <li>Ensure that the Framework is applied to jointly managed or shared service organisations as appropriate; and</li> <li>Ensure the performance information that accompanies the financial statements is prepared on a consistent and timely basis and the statements allow for comparison with other similar organisations.</li> </ul>
	<b>Assurance and effective accountability</b>	<ul style="list-style-type: none"> <li>Ensure that recommendations for corrective action made by external audit are acted upon;</li> <li>Ensure an effective internal audit service with direct access to Members is in place which provides assurance with regard to governance arrangements and that recommendations are acted upon;</li> <li>Welcome peer challenge, reviews and inspections from regulatory bodies and implement recommendations;</li> <li>Gain assurance on risks associated with delivering services through third parties and evidence this in the annual governance statement; and</li> <li>Ensure that when working in partnership, arrangements for accountability are clear and that the need for wider public accountability has been recognised and met.</li> </ul>

## Part 5 - Codes and Protocols

### Appendix B - Gloucester City Council's Corporate Governance Framework

'The International Framework: Good Governance in the Public Sector' defines 'governance' as comprising the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved. The framework also states that to deliver good governance in the public sector both governing bodies and individuals working for them must try to achieve the Council's objectives while acting in the public interest at all times.							
Core Principles	(A) Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law	(B) Ensuring openness and comprehensive stakeholder engagement	(C) Defining outcomes in terms of sustainable economic, social, and environmental benefits	(D) Determining the interventions necessary to optimise the achievement of the intended outcomes	(E) Developing the Council's capacity, including the capability of its leadership and the individuals within it	(F) Managing risks and performance through robust internal control and strong public financial management	(G) Implementing good practices in transparency, reporting, and audit to deliver effective accountability
Page 206 Evidence of Good Governance	<a href="#">The Constitution</a>	<a href="#">The Gloucester City Council Plan 2017-2020 Draft</a>	<a href="#">Cabinet Reports</a>	Consultation Planning and Implementation Protocol	<a href="#">The Constitution</a>	<a href="#">The Constitution</a>	<a href="#">Audit and Governance Committee</a>
	<a href="#">Schemes of Delegation / Decision making protocols</a>	<a href="#">Decision Making Protocols</a>	<a href="#">The Gloucester City Council Plan 2017-2020 Draft</a>	<a href="#">Budget Consultation</a>	Member Development Framework	<a href="#">Audit and Governance Committee</a>	<a href="#">Scrutiny Framework</a>
	<a href="#">Audit and Governance Committee</a>	<a href="#">Council website records all council meetings and key decisions</a>	<a href="#">Scrutiny Framework</a>	Stakeholder Engagement	Member Induction Programme	Scrutiny Framework	<a href="#">Decision Making Protocols</a>
	<a href="#">Scrutiny Framework</a>	Scrutiny Annual Report	<a href="#">Decision Making Protocols</a>	Option Appraisals	Workforce and Organisational Development Strategy	<a href="#">Standing Orders / Financial Regulations</a>	External audit of accounts and value for money opinion

## Part 5 - Codes and Protocols

‘The International Framework: Good Governance in the Public Sector’ defines ‘governance’ as comprising the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved. The framework also states that to deliver good governance in the public sector both governing bodies and individuals working for them must try to achieve the Council’s objectives while acting in the public interest at all times.							
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Evidence of Good Governance Page 207	<a href="#">Contract Standing Orders / Financial Regulations</a>	<a href="#">Public Meetings</a>	<a href="#">Cultural Vision and Strategy 2016-2026</a>	<a href="#">The Gloucester City Council Plan 2017-2020 Draft</a>	Leadership Performance Management and Leadership Development Programme	External audit of accounts and value for money opinion / Statement of Accounts / Medium Term Financial Plan	<a href="#">Annual Statement of Accounts</a>
	<a href="#">Statutory Officers Roles</a> <a href="#">Managing Director, Chief Financial Officer/Monitoring Officer / Legal Services</a>	<a href="#">Public Consultations</a>	Option Appraisals	<a href="#">Money Plan</a>	Staff Performance Development Review	<a href="#">Risk Management Policy / Strategy / Toolkit</a>	<a href="#">Annual Governance Statement / Assurance Framework</a>
	<a href="#">Members and Officers Codes of Conduct</a>	<a href="#">City Plan</a>	<a href="#">Regeneration and Economic Development Strategy 2016-2021</a>	<a href="#">Decision Making Protocols</a>	Peer Reviews / External Inspection	Information Governance	<a href="#">Chief Internal Auditors Annual Opinion / Report</a>

## Part 5 - Codes and Protocols

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Page 208 Evidence of Good Governance	<a href="#">Members / Officers Register of Interests / Register of Gifts and Hospitality</a>	<a href="#">Joint Core Strategy</a>	Service Level / Outcome Agreements	Strategic Plans	Benchmarking	Strategic Risk Register / Operational Risk Registers	Internal Audit Service
	<a href="#">Protocol for Member Officer Relations</a>	<a href="#">City Vision 2012-2022</a>	Service Plans	<a href="#">Risk Management Policy / Strategy</a>	Internally led reviews / independent challenge	Risk Based Internal Auditing Service / planning	Strategic performance, financial and risk reporting framework
	<a href="#">Anti-fraud and Corruption Policy and Strategy</a>	Strategic performance, financial and risk reporting framework	<a href="#">Risk Management Policy / Strategy</a>	Alternative Service Delivery Models	Alternative Service Delivery Models	Chief Internal Auditors Annual Opinion / Report	<a href="#">Open Data and Transparency Code</a>
	<a href="#">Anti-Bribery and Anti Money Laundering Policies</a>	<a href="#">Open Data and Transparency Code</a>	Social Value Policy	Strategic performance, financial and risk reporting framework	Shared Services Programme	Strategic performance, financial and risk reporting framework	<a href="#">Website</a>



## Part 5 - Codes and Protocols

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Evidence of Good Governance Page 209	<a href="#">Whistleblowing Policy</a>	<a href="#">Customer feedback / Complaints, Comments, Compliments Procedure</a>	Strategic performance, financial and risk reporting framework	Service Plans	Continuing Professional Development Programmes	<a href="#">Anti-fraud and Corruption Policy / Strategy</a>	FOI Publication Scheme,
	<a href="#">Risk Management Policy / Strategy</a>	FOI Publication Scheme	Environmental Information Regulations (EIR)	<a href="#">Public Consultations</a>	Safety, Health and Wellbeing	<a href="#">Anti Bribery Policy / Anti Money Laundering Policy</a>	<a href="#">Complaints, Comments and Compliments procedure</a>
	Procurement Strategy / Guidance	<a href="#">Annual Statement of Accounts and Annual Governance Statement published</a>			Periodic staff surveys	Emergency / Business Continuity Management	

~~**GLOUCESTER CITY COUNCIL**~~

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~~**The Code of Conduct  
for Members and Co-Opted Members**~~

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~~**together with**~~

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~~**The Rules for  
Registration of Interests  
and  
Conflicts of Interest**~~

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~~*Approved and adopted by the Council on  
19<sup>th</sup> July 2012*~~

## Part 5 - Codes and Protocols

### Contents

	Page
<b><u>Part 1</u></b>	
<b><del>The Code of Conduct for Members of Gloucester City Council</del></b>	<del>8</del>
<del>1. Purpose of the Code</del>	<del>10</del>
<del>2. Scope of the Code</del>	<del>10</del>
<del>3. Public Duties of Members</del>	<del>10</del>
<del>4. General Principles of Conduct</del>	<del>11</del>
<del>5. Expectations of Conduct</del>	<del>11</del>
<del>6. Rules of Conduct</del>	<del>12</del>
<del>7. Registration and Declaration of Interests</del>	<del>13</del>
<del>8. Duties in respect of the Audit and Governance Committee and the Monitoring Officer</del>	<del>14</del>
<b><u>Part 2</u></b>	
<b><del>Registration, Disclosure and Duties on Interests held by Members</del></b>	
<del>9. Registration of Interests</del>	<del>15</del>
<del>9.4 Disclosable Pecuniary Interests</del>	<del>15</del>
<del>9.5 Other Interests</del>	<del>15</del>
<del>9.9 Gifts and Hospitality</del>	<del>16</del>
<del>10. Duties in Respect of Interests</del>	<del>16</del>
<del>10.1 Declaration of Interests not in the Register</del>	<del>16</del>
<del>10.3 Disclosable Pecuniary Interests</del>	<del>16</del>
<del>10.7 General</del>	<del>17</del>
<b><del>Schedule of Disclosable Pecuniary Interests</del></b>	<del>18</del>

## Part 5 - Codes and Protocols

### **The Code of Conduct for Members of Gloucester City Council**

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*Prepared pursuant to Chapter 7 of the Localism Act 2011*

#### **Part 1**

#### **1. Purpose of the Code**

~~1.01 The purpose of this Code of Conduct is to assist Members (including co-opted Members) in the discharge of their obligations to the Council, their local communities and the public at large by:~~

- ~~a) setting out the standards of conduct that are expected of Members and co-opted Members of the Council when they are acting in that capacity, and in so doing;~~
- ~~b) providing the openness and accountability necessary to reinforce public confidence in the way in which Members perform those activities.~~

#### **2. Scope of the Code**

~~2.01 The Code applies to Members in all aspects of their activities as a Member, including when acting on Council business, ward/division business or when otherwise purporting to act as a Member and when attending informal meetings with other Members and/or officers relating to the discharge of the Council's functions. It does not seek to regulate what Members do in their purely private and personal lives.~~

~~2.02 The obligations set out in this Code are complementary to those which apply to all Members by virtue of the procedural and other rules of the Council and the rulings of the Chair.~~

~~2.03 The obligations set out in this Code are also complementary to, and include, those obligations which apply to Members falling within the scope of related Codes and Protocols of the Council, specifically:~~

- ~~the Protocol on Member and Officer Relations;~~
- ~~the Planning and Development Code of Practice; and~~
- ~~the Probity in Licensing and Enforcement Code of Practice.~~

#### **3. Public Duties of Members**

~~3.01 Members have a duty to uphold and comply with the law, including the general law against discrimination and the requirements of the Localism Act 2011, and to act on all occasions in accordance with the public trust placed in them.~~

~~3.02 Members have an overriding duty to act in the interests of the City as a whole, but also have a special duty to represent the views of the residents and communities of their ward.~~

#### **4. General Principles of Conduct**

21 May 2015 (revised 1 December 2015)

**Codes and Protocols  
Part 5 - 16**

## Part 5 - Codes and Protocols

~~4.01~~ In carrying out their duties in exercising the functions of their Council or otherwise acting as a Councillor, Members will be expected to observe the following general principles of conduct identified by the Committee on Standards in Public Life in its First Report as applying to holders of public office. These principles will be taken **into** consideration when any allegation is received of breaches of the provisions of the Code.

~~a)~~ *Selflessness*

~~Holders of public office should act solely in terms of the public interest.~~

~~b)~~ *Integrity*

~~Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.~~

~~c)~~ *Objectivity*

~~Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.~~

~~d)~~ *Accountability*

~~Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.~~

~~e)~~ *Openness*

~~Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.~~

~~f)~~ *Honesty*

~~Holders of public office should be truthful.~~

~~g)~~ *Leadership*

~~Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.~~

### ~~5.~~ **Expectations of Conduct**

~~5.01~~ Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

~~5.02~~ Members shall at all times ensure that their use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that they observe any limits placed by the Council on the use of such expenses, allowances, facilities and services.

## Part 5 - Codes and Protocols

~~5.03~~ Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Council and never undertake any action which would bring the Council, or its Members or officers generally, into disrepute.

### ~~6.~~ Rules of Conduct

~~6.01~~ Members shall in particular observe the following rules when acting as a Member or co-opted Member of the Council:

- ~~a)~~ ~~Do~~ provide leadership to the authority and communities within the Council's area, by personal example.
- ~~b)~~ ~~Do~~ treat others with respect and ~~Do not~~ bully any person.
- ~~c)~~ ~~Do~~ be aware of the requirements of the Bribery Act 2010 and that offences under the Act include the situation where a Member requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, any function of a public nature, any activity connected with the Council or any activity to be performed by or on behalf of the Council or others should be performed improperly.
- ~~d)~~ ~~Do not~~ do anything which may cause your Council to breach any of the equality enactments (as defined in the Equality Act 2010), data protection legislation or any other legislation.
- ~~e)~~ ~~Do not~~ conduct yourself in a manner which is likely to bring the Council into disrepute.
- ~~f)~~ ~~Do not~~ do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your Council.
- ~~g)~~ ~~Do not~~ disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where
  - ~~(i)~~ you have the consent of a person authorised to give it;
  - ~~(ii)~~ you are required by law to do so;
  - ~~(iii)~~ the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - ~~(iv)~~ the disclosure is -
    - ~~(a)~~ reasonable and in the public interest; and
    - ~~(b)~~ made in good faith and in compliance with the reasonable requirements of the Council.
- ~~h)~~ ~~Do not~~ prevent another person from gaining access to information to which that person is entitled by law.

## Part 5 - Codes and Protocols

~~i) Do not provide or offer to provide a reference for any candidate for appointment or promotion as an officer of the Council.~~

~~6.02 Members shall observe the following rules when using the resources of the Council, or resources the use of which is controlled or influenced by the Council or authorising the use of those resources by others or:~~

~~a) Do act in accordance with the Council's reasonable requirements including the requirements of the Council's IT, the Protocol on Member and Officer Relations, the Planning and Development Code of Practice and the Probity in Licensing and Enforcement Code of Practice, which you are deemed to have read;~~

~~b) Do make sure that such resources are not used improperly for political purposes (including party political purposes); and~~

~~c) Do have regard to any applicable Local Council Code of Publicity made under the Local Government Act 1986.~~

~~d) Do not improperly use knowledge gained solely as a result of your role as a member for the advancement of your own interests.~~

~~6.03 Members shall observe the following rules when making decisions on behalf of or as part of the Council:~~

~~a) Do have regard to any relevant advice provided to you by the Council's Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to his or her statutory duties.~~

~~b) Do give reasons for the decisions in accordance with any statutory requirements, on the basis of the merits of the circumstances, in the public interests and in accordance with any reasonable additional requirements imposed by the Council.~~

~~c) Do consult the Council's Chief Legal Officer whenever there is any doubt as to the Council's powers to act, or as to whether the action proposed lies within the policy framework agreed by the Council, or where the legal consequences of action or failure to act by the Council might have important repercussions.~~

### ~~7. Registration and Declaration of Interests~~

~~7.01 Members shall fulfil conscientiously the requirements of the Council in respect of the registration of interests in the Register of Members' Interests and, where it is required or appropriate to do so, shall always draw attention to any relevant interest in any proceeding of the Council or its Committees, or in any communications with the Council, its Members or officers as required in this Code of Conduct.~~

### ~~8. Duties in respect of the Council's Audit and Governance Committee and the Monitoring Officer~~

~~8.01 The application and guidance on the application of this Code shall be a matter for the Council and for the Council's Audit and Governance Committee and, as appropriate, the Monitoring Officer, acting in accordance with their terms of reference.~~

## Part 5 - Codes and Protocols

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- ~~8.02~~ — Members shall co-operate, at all stages, with any investigation into their conduct by or under the Council of those persons and shall not seek to intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness or involved in the administration of any investigation or proceedings in relation to an allegation that a member has failed to comply with his or her Council's code of conduct.
- ~~8.03~~ — No Member shall lobby a member of the Council's Audit and Governance Committee or Hearings Panel in a manner calculated or intended to influence their consideration of a complaint of a breach of this Code otherwise than in accordance with the arrangements laid down by the Council.



## Part 5 - Codes and Protocols

### **Registration, Disclosure and Duties on Interests Held by Members and Co-Opted Members of Gloucester City Council**

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#### **Part 2**

#### **9. Registration of Interests**

~~9.01 Do fulfil the requirements of the law and the Council in registering your interests in the Register of Members' Interests. These are explained on the following pages.~~

~~9.02 Do draw attention to any relevant interest, where it is required or appropriate to do so, in any proceeding of the Council or its Committees with which you are involved or in any communications with any colleague, officer or outside body in your role as a member.~~

~~9.03 Do approach the Council's Monitoring Officer if you feel that your interest should be treated as sensitive because it could lead to you, or a person connected with you, being subject to violence or intimidation.~~

#### **Disclosable Pecuniary Interests**

#### **9.04 You must:-**

- ~~a) comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which you have a Disclosable Pecuniary Interest.~~
- ~~b) ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your Disclosable Pecuniary Interests.~~
- ~~c) make a verbal declaration of the existence and nature of any Disclosable Pecuniary Interest at any Meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent (unless the interest is a sensitive interest in which event you need not disclose the nature of the interest).~~
- ~~d) "Meeting" means any meeting organised by or on behalf of the authority, including:-
  - ~~(i) any meeting of the Council, or a Committee or Sub-Committee of the Council;~~
  - ~~(ii) taking a decision as a Ward Councillor or as a Cabinet Member;~~
  - ~~(iii) any briefing by officers; and~~
  - ~~(iv) any site visit to do with business of the authority.~~~~

#### **Other Interests**

~~9.05 In addition to the requirements of Paragraph 9.04, if you attend a meeting at which any item of business is to be considered and you are aware that you have a "non-disclosable pecuniary interest" or "personal interest" in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.~~

## Part 5 - Codes and Protocols

~~9.06~~ You have a “non-disclosable pecuniary interest” or “personal interest” in an item of business of your authority where:-

~~9.07~~ A decision in relation to that business might reasonably be regarded as affecting the well being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority’s administrative area, or

~~9.08~~ It relates to or is likely to affect any of the interests listed in the Table in the Schedule to this Code, but in respect of a member of your family (other than your spouse, civil partner or person with whom you are living as spouse or civil partner) or a person with whom you have a close association and that interest is not a Disclosable Pecuniary Interest.

### ~~Gifts and Hospitality~~

~~9.09~~ You must within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority.

~~9.10~~ The Monitoring Officer will place your notification on a public register of gifts and hospitality.

### ~~10. Disclosure and Duties in Respect of Interests Held by Members~~

#### ~~Declaration of interests not included in the Register~~

~~10.01~~ Do ensure, if you have an interest that is not entered in the Council’s register, that

~~a)~~ where you are present at a meeting of the Council or of any committee, sub-committee, joint committee or joint sub-committee of the Council, you disclose the interest to the meeting (unless the Council’s Monitoring Officer considers that it is a sensitive interest); and

~~b)~~ you notify the Council’s Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure (unless it is subject of a pending notification).

~~10.02~~ Do then act accordingly.

#### ~~Disclosable Pecuniary Interests~~

~~10.03~~ Do ensure, where you

~~a)~~ are present at a meeting of the Council or of any Committee, Sub-Committee, Joint Committee, Joint Sub-Committee, Forum or Working Party of the Council; and

~~b)~~ are or become aware that you have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting,

that you

## Part 5 - Codes and Protocols

- ~~• do not participate, or participate further, in any discussion of the matter at the meeting; and~~
- ~~• do not participate in any vote, or further vote, taken on the matter at the meeting~~

~~10.04 Do ensure, where you~~

- ~~a) are to discharge a function of the Council acting alone, and~~
- ~~b) are or become aware that you have a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, in the course of discharging that function~~

~~that you~~

- ~~• do not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by you).~~

~~10.05 Do make a written request to the proper officer of the Council if you consider it appropriate that the Council grant a dispensation relieving you from either or both of the restrictions in paragraph 2.1.~~

~~10.06 Do be aware that, in respect of disclosable pecuniary interests, failing to act as required by the Localism Act (as outlined in the Schedule to this Code of Conduct) is a criminal offence.~~

### ~~General~~

~~10.07 Do act in accordance with the Council's Procedure Rules where you~~

- ~~a) are present at a meeting of the Council or of any Committee, Sub-Committee, Joint Committee, Joint Sub-Committee, Forum or Working Party of the Council; and~~
- ~~b) are or become aware that you have a disclosable pecuniary interest, a non-disclosable pecuniary interest or a personal interest in any matter to be considered, or being considered, at the meeting.~~

~~10.08 Do base your conduct when acting as a Member on a consideration of the public interest, avoiding conflict between your personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.~~

## Part 5 - Codes and Protocols

### Schedule to the Code of Conduct

#### Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the **Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012** as follows—

<b>Interest</b>	<b>Prescribed description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous 12 months (up to and including the date of notification of the interest) in respect of any expenses incurred by you carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between you, your spouse or civil partner or person with whom you are living as a spouse or civil partner (or a body in which you or they have a beneficial interest) and the Council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the Council's area.  For this purpose "land" includes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner or person with whom you are living as a spouse or civil partner (alone or jointly with another) to occupy the land or to receive income.
Licences	Any licence (alone or jointly with others) to occupy land in the Council's area for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge)—  (a) the landlord is the Council; and (b) the tenant is a body in which you, your spouse or civil partner or a person you are living with as a spouse or civil partner has a beneficial interest.
Securities	Any beneficial interest in securities of a body where—  (a) that body (to your knowledge) has a place of business or land in the Council's area and  (b) either—

## Part 5 - Codes and Protocols

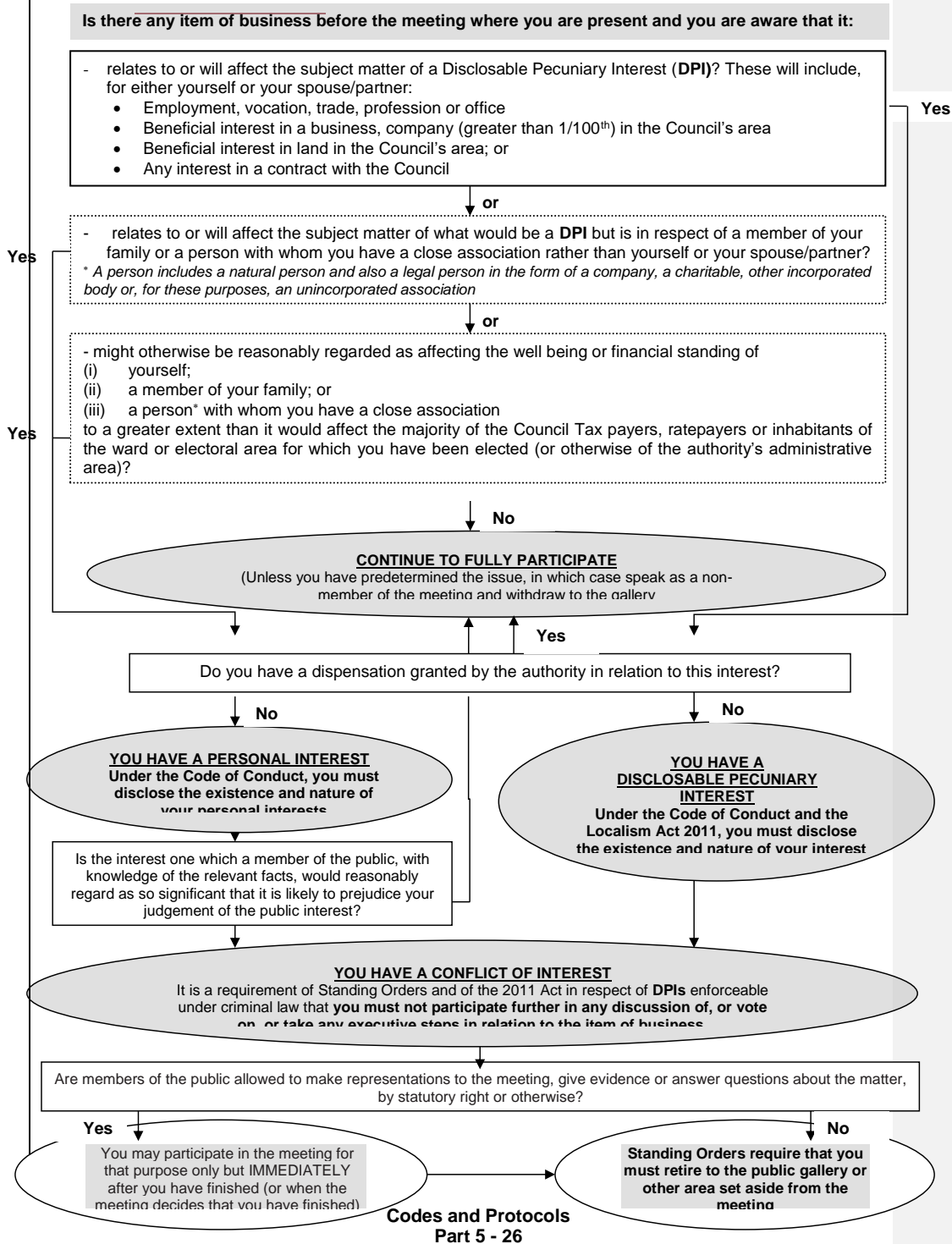
- ~~i. The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or~~
- ~~ii. If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, your spouse or civil partner or person with whom you are living as a spouse or civil partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.~~

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

~~**NOTE:**— the provisions in paragraph 4 of the Code in respect of the registration and disclosure of Disclosable Pecuniary Interests and to withdraw from participating in respect of any matter where you have a Disclosable Pecuniary Interest apply to your interests and those of your spouse or civil partner or person with whom you are living as a spouse or civil partner where you are aware of their interest.~~

## Part 5 - Codes and Protocols

### Declaring Interests Flowchart – Questions to ask yourself



## Part 5 - Codes and Protocols

### **OFFICERS' CODE OF CONDUCT**

(This will be amended in accordance with the national framework document)

#### **1. Official Conduct**

- 1.1 Staff are expected to give the highest possible standard of service to the public and provide appropriate advice to Councillors and fellow employees with impartiality. Our expectation on propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to rules, procedures and recommended practices.
- 1.2 All staff, whether or not employed in a politically restricted post, must follow every lawfully expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work. Staff in politically restricted posts must comply with any statutory restrictions on their political activities.

#### **2. Working for the Council**

- 2.1 Staff are free to do what they like in their spare time as long as their private life does not interfere with their work. The Council will not discourage staff from doing part-time work outside their usual hours, but such work must neither be harmful to the Council's interests nor weaken the public's confidence in the integrity of the Council. Part-time work outside their usual hours should not be for an employer who is in competition with the Council.
- 2.2 Staff on Grade F (SCP 29) or above must not carry out any other business or take up additional appointment while employed by the Council, without the Council's permission. To ensure there is no conflict of interest, staff must notify their Manager if they want to undertake work outside the Council, and get written permission from the Council before undertaking any such work.

#### **3. Implied Contractual Obligations**

- 3.1 Contract of employment is also governed by additional conditions known as 'implied terms'. Though these conditions are not written in the contract of employment, these conditions are treated by the law as if they are part of the written contract. These implied obligations are as follows:
- (i) Good Faith and Fidelity
    - Staff must behave honestly and carry out their duties honestly. They must not accept bribes, backhanders or other inducements.
    - Staff must not take unfair advantage of any confidential information obtained through their job.
  - (ii) Information which must be kept confidential includes:-
    - commercially sensitive information;
    - personal details of colleagues;
    - items on green paper;
    - the Council's internal documents (unless the law says that the information must be revealed or instructed by the Manager).
  - (iii) Working for Competitors
    - Staff must not work for a rival employer or set up in competition with the Council while employed by the Council.
    - Staff must not compete with the Council for a contract while still employed by the Council. It is a dismissible offence for staff to tender for a future contract to provide a service, which is currently being provided by the Council.
    - It is also a dismissible offence if staff canvass other Council employees to induce them to join a business, which is being set up with the intention of competing with the Council.

## Part 5 - Codes and Protocols

### (iv) Behaviour

- ~~Mutual respect between Members and all staff is essential to good local government, and working relationships should be kept on a professional basis.~~
- ~~Staff should deal with the public, Members and other employees sympathetically, efficiently and without bias.~~
- ~~Any harassment and bullying is unacceptable to the Council and will be dealt with in accordance with the Council's Code of Practice on Harassment and Bullying at Work.~~
- ~~Employees must not be under the influence of drugs or alcohol at work.~~
- ~~Staff should not behave in a way which is likely to bring the Council into disrepute.~~
- ~~All employees should provide a united image of the Council's values, aims and responsibilities to the public. Staff must not directly oppose the aims and responsibilities of the Council by publicly criticising and blaming colleagues, sections or other service units of the Council.~~
- ~~If staff belong to a professional association, they are expected to comply with its Code of Conduct and professional standards.~~

### 4. Handling Information

4.1 ~~When handling information staff need to comply with the Data Protection Act 1998. This law requires that personal data is:-~~

- ~~fairly and lawfully processed;~~
- ~~processed for limited purposes;~~
- ~~adequate, relevant and not excessive;~~
- ~~accurate;~~
- ~~not kept longer than necessary;~~
- ~~processed in accordance with the data subject's rights;~~
- ~~secure;~~
- ~~not transferred to countries without adequate protection.~~

### 4.2 Disclosing Information

- ~~Staff may be required by law to disclose certain types of information to Members, auditors, government departments, service users and the public. Information should be disclosed unless there is a good reason for not doing so.~~
- ~~Staff must not reveal any information to anyone else unless they have a legal responsibility to provide it, or where the employee, client, contractor, debtor or creditor concerned gives them written permission to do so.~~
- ~~Staff should not disclose details on proceedings at Committee meetings, or Council, or any letters or documents to the public unless they have been told to do so by their Manager or the law says that they can reveal such information.~~
- ~~Staff must not use information obtained through work for their personal benefit or gain, nor may they pass it on to anyone else who might use it in such a way.~~
- ~~Staff must not discuss Council business/information with colleagues from other organisations, friends or family members who may work for, or have friends who work for a competitor.~~
- ~~Staff must not discuss information about any Council employee's private affairs with the public without that person's permission.~~

### 4.3 Communicating Information

- ~~Staff will need to exercise reasonable judgement in communicating information, particularly information which may bring the Council in to disrepute or cause it harm, to any person or organisation outside the Council.~~



## Part 5 - Codes and Protocols

- Staff will need to obtain permission before revealing internal letters or debating with the media, community groups or other public organisations.
- They will also need to obtain permission before accepting any invitation to take part in newspaper interviews, radio broadcasts, and television programmes, and so on where the discussion relates directly or indirectly to their work at the Council.
- Only staff who have undergone media training are allowed to engage with the media.

### 5. Gifts and Hospitality

5.1 All offers of a gift or hospitality, whether accepted or not, must be entered in the Register of Gifts and Hospitality, which is maintained by every service. The register will contain the following information:-

- the person or organisation making the offer;
- the member of staff to whom the offer was made;
- the gift or hospitality offered;
- the circumstances in which the offer was made;
- the action which you took if the offer was made to you;
- the action taken by the Manager.

### 5.2 Gifts

- Staff are not allowed to accept any money or reward other than their wages. It is a criminal offence, currently punishable by a fine of up to £2,500 under section 117 (2) of the Local Government Act 1972.
- Small gifts, such as calendars, diaries, pens, pencils and other tokens which are distributed to many employees as a common business practice, can be accepted without needing to obtain permission and without your acceptance having to be recorded, as long as they are not personal only to the receiving individual.
- Any gifts which have been delivered and cannot be returned for some reason should be given to the Head of Paid Service for official use or donation to a local charity. All such gifts must be registered in the Register of Gifts and Hospitality.

### 5.3 Hospitality

- Staff may accept a reasonable degree of hospitality in reasonable circumstances, but will need to take extreme care to avoid any suggestion of improper influence. (For guidance, see staff handbook)

### 5.4 Free/Discount Travel

- Staff should not accept free or discounted transport unless:-
  - they have obtained their Manager's approval; and
  - the offer is available to all Council employees; or
  - it is travel which involves legitimate participation in promotional events.

### 5.5 Free/Discount Meals

Staff may accept an occasional modest working lunch, which is part of an on-going working relationship between staff and an outside organisation, which allows staff to discuss business. The hospitality must be just a minor part of a specific working arrangement.

### 5.6 Sporting and Social Events

- Staff must decline invitations to major sport and social events, such as international or national fixtures, golf tournaments, theatre trips or dinners/parties as the guest of a contractor or contractor who is seeking to do business with the Council.

## Part 5 - Codes and Protocols

- ~~Staff can accept sport and social functions which are part of local community life and which include local competitions, community interest group gatherings, meetings of a public organisation and events which celebrate an achievement within the City of Gloucester area.~~

### ~~6. Financial Matters~~

~~6.1 Staff must ensure that they use public funds entrusted to them in a responsible and lawful manner.~~

#### ~~6.2 Standing Orders and Financial Regulations~~

- ~~Staff must act in accordance with the Standing Orders and Procedures as specified in Part 4 of the Constitution.~~

#### ~~6.3 Fraud and Corruption~~

- ~~The Council expects that Members and staff at all levels will lead by adherence to the rules, procedures and recommended practices of the Anti-Fraud and Corruption Strategy.~~
- ~~If any employee is in receipt of benefits they should notify the relevant authority of the change of circumstances when they take up the post.~~
- ~~The Council's Benefit Fraud Team will be allowed access to Council and personnel records relevant to an investigation in accordance with the Housing and Council Tax Benefit Fraud Policy.~~

~~6.4 Staff must declare to their Manager any financial interests, which could be seen as being in conflict with the Council's interests.~~

~~6.5 Relationships of a business or private nature with external contractors or potential contractors should be made known to the appropriate Manager.~~

~~6.6 No special favours should be shown to any business run by for example, friends, partners or relatives during the tendering process.~~

~~6.7 Staff are required to write to the appropriate Manager as soon as possible giving details of any direct or indirect financial benefits they may receive from a contract, or proposed contract with the Council. Staff will have to comply with this legal requirement for contracts whether or not they have signed the contract personally.~~

~~6.8 They must write to their Manager to tell him or her of any approaches or offers made by a potential contractor even if they said "No". Any offer of cash for information by a competitor must also be notified to the Manager.~~

~~6.9 Members and staff at all levels must act with propriety.~~

### ~~7. Appointment and Other Employment Matters~~

~~7.1 Staff involved in making appointments should ensure that these are made on the basis of merit. It is unlawful for an employee to make an appointment, which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias such employees should not be involved in an appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee or prospective employee to whom they are related, or have a close personal relationship outside work.~~

## Part 5 - Codes and Protocols

### ~~8. Equality Issues~~

~~8.1 Staff should ensure that Council policies relating to equality issues are complied with in addition to the requirements of the law. Everyone, including customers, other employees, potential employees, clients and customers are treated consistently with respect and in accordance with the principles of equal opportunities and human dignity.~~

### ~~9. Customer Care~~

~~9.1 Staff are expected to conform to the standards of the customer care programme as specified in the Customer Care Charter, the codes of conduct for writing letters, answering phones, service charters and the requirements of the complaints policy and procedures.~~

### ~~10. Health and Safety~~

~~10.1 The Health and Safety at Work Act 1974 applies to everyone at work and to the general public, visitors and clients who may be affected by work activities.~~

~~10.2 As employees, members of staff are responsible for:~~

- ~~• making themselves familiar with, and conform to, the health and safety programme at all times;~~
- ~~• observing all safety rules at all times;~~
- ~~• wearing appropriate safety equipment and use appropriate safety devices at all times.~~
- ~~• conforming to instructions given by their Manager and others with a responsibility for health and safety;~~
- ~~• reporting all accidents and damage to his/her supervisor whether persons are injured or not;~~
- ~~• making suggestions to improve health and safety in the workplace to your supervisor;~~
- ~~• reporting all hazards and defects to your supervisor.~~

### ~~11. Council Policies and Practices~~

#### ~~11.1 No Smoking at Work~~

~~Smoking is not allowed in any of the Council's premises including civic, and public areas in the Docks buildings. Staff must abide by the Council's No Smoking Policy.~~

#### ~~11.2 Alcohol and Substance Abuse~~

~~Any employee, who is identified as having alcohol related or substance abuse problem, will be treated in accordance with the guidance notes on alcohol and substance abuse.~~

#### ~~11.3 IT Security~~

- ~~(a) Staff must follow the rules and regulations laid out by the IT Security Policy when using the internet.~~
- ~~(b) Staff must also follow the Council's e-mail user policy when sending and receiving e-mails.~~

#### ~~11.4 Whistleblowing~~

~~The Public Interest Disclosure Act 1998 provides protection for workers who disclose information which might otherwise be regarded as confidential.~~

~~Gloucester City Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, the Council encourages employees and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns via the Whistleblowing Policy. It is recognised that certain cases will have to proceed on a confidential basis and this policy makes it clear that staff can do so without fear of reprisals.~~

## Part 5 - Codes and Protocols

### ~~11.5 Use of Office Equipment~~

- ~~(a) Staff must follow the Council's policy regarding the use of office telephones/mobile phones and fax machines, as stated in the employee handbook.~~
- ~~(b) Staff must not utilise property, vehicles or other equipment and facilities of the Council for personal use unless authorised to do so.~~

### ~~12. Investigation by the Monitoring Officer~~

- ~~12.1 Where the Monitoring Officer or an Internal or External Auditor is undertaking an investigation in accordance with the Council's adopted standards arrangements, an employee must comply with any requirement made by the Monitoring Officer in connection with any such investigation.~~

## Part 5 - Codes and Protocols

### **PROTOCOL ON MEMBER/OFFICER RELATIONS**

~~This protocol forms part of the local framework for standards of behaviour approved by the Audit and Governance Committee. Monitoring of compliance with this protocol is the responsibility of the Audit and Governance Committee, the Monitoring Officer and the Head of Paid Service.~~

#### **1. Introduction**

~~1.1 The relationship between Councillors and officers is essential to the successful working of the Council. This relationship within the authority is characterised by mutual respect, informality and trust. Councillors and officers should feel free to speak to each other openly and honestly. The purpose of this protocol is to help Councillors and officers perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other.~~

~~1.2 Guiding all aspects of relationship between Councillors and officers should be the following general principles governing Members' conduct, some of which are enshrined in law:-~~

- ~~• **selflessness** – serving only the public interest~~
- ~~• **honesty and integrity** – not allowing these to be questioned; not behaving improperly~~
- ~~• **objectivity** – taking decisions on merit~~
- ~~• **accountability** – to the public; being open to scrutiny~~
- ~~• **openness** – giving reasons for decisions~~
- ~~• **personal judgement** – reaching one's own conclusions and acting accordingly~~
- ~~• **respect for others** – promoting equality; avoiding discrimination; respecting others (Member/Member, as well as Member/officer)~~
- ~~• **duty to uphold the law** – not acting unlawfully~~
- ~~• **stewardship** – ensuring the prudent use of the Council's resources~~
- ~~• **leadership** – acting in a way which has public confidence~~

~~1.3 The Protocol must be read and operated in the context of any relevant legislation and national and local codes of conduct and any relevant Council procedures.~~

#### **2. The Roles of Councillors and Officers**

~~2.1 Councillors are responsible to the electorate and serve as long as their term of office lasts. Officers are responsible to the Council and carry out the Council's work under the direction of the Council, Executive and Committees.~~

##### **2.2 Councillors:**

~~Elected Councillors are responsible for:~~

- ~~— (a) giving political leadership;~~
- ~~— (b) initiating and determining the policy of the Council, determining the core values of the Council and approving the Council's policy framework, strategic plans and budget;~~
- ~~— (c) acting as advocates for their constituents;~~
- ~~— (d) democratic accountability for the delivery of Council services;~~
- ~~— (e) the scrutiny of Council services;~~
- ~~— (f) the promotion of partnership working;~~
- ~~— (g) representing the Council on local, regional and national bodies.~~

## Part 5 - Codes and Protocols

~~2.3 It is not the role of Councillors to involve themselves in the day-to-day management of the Council's services.~~

~~2.4 Executive Members, Chairs and Vice Chairs have additional responsibilities. These responsibilities will result in increased expectations and relationships with officers that are more complex. Such Councillors must still respect the impartiality of officers and must not ask them to undertake work of a party political nature or compromise their position with other Councillors or other officers.~~

~~2.5 Cabinet Members can have individual executive powers. They may determine matters within their portfolio, but implementation of their decisions is the responsibility of officers.~~

~~2.6 Officers:~~

~~Officers are responsible for:~~

- ~~(a) providing professional advice and information to Councillors in developing and implementing policy and in decision-making;~~
- ~~(b) implementing decisions of Councillors;~~
- ~~(c) day-to-day administration of the Council;~~
- ~~(d) managerial and operational decisions taken within the Council's Scheme of Delegation;~~
- ~~(e) information to and consultation with local people about Council services.~~

~~The Head of Paid Service, Monitoring Officer and Chief Financial Officer have responsibilities in law over and above their obligations to the Council and its Councillors, and which they must be allowed to discharge.~~

~~2.7 Councillors and officers will wish to discuss policy issues and officers will require political guidance in preparing proposals. When officers prepare reports for Councillor decision they have a duty to give advice in accordance with their professional expertise and their own professional codes of conduct. In some situations officers will be under a duty to submit a report on a particular matter. Officers expect to have their professional integrity respected and not to be influenced or required to reduce options, withhold information or make recommendations to the Cabinet or a Committee which they cannot support professionally.~~

### ~~3. Working Relationships~~

~~3.1 Councillors can expect the following from officers:~~

- ~~(a) a commitment to the Council as a whole and not to any political group;~~
- ~~(b) performance of their duties effectively and efficiently;~~
- ~~(c) a working partnership;~~
- ~~(d) an understanding of respective roles and pressures;~~
- ~~(e) timely responses to enquiries and complaints;~~
- ~~(f) impartial professional advice;~~
- ~~(g) regular and up to date information on matters which are appropriate and relevant to their needs;~~
- ~~(h) awareness of and sensitivity to the political environment;~~
- ~~(i) courtesy and appropriate confidentiality;~~
- ~~(j) training and development in order to carry out their role effectively;~~
- ~~(k) that employees will not use their relationship with Councillors to advance their personal interests to influence decisions improperly;~~
- ~~(l) compliance with the Officer Code of Conduct;~~

## Part 5 - Codes and Protocols

~~(m) support for the role of Councillors as the local representatives of the authority, within any scheme for Councillor support approved by the authority.~~

~~3.2 Officers can expect the following from Councillors:~~

~~(a) a working partnership;~~

~~(b) an understanding of respective roles and pressures;~~

~~(c) political leadership and direction;~~

~~(d) courtesy and appropriate confidentiality;~~

~~(e) not to be subject to bullying or put under undue pressure;~~

~~(f) not to use their position or relationship with officers to advance their personal interests or to influence decisions improperly;~~

~~(g) compliance with the Councillor Code of Conduct;~~

~~(h) to inform the Monitoring Officer of any relationships which might be seen as unduly influencing their work and role.~~

~~3.3 Mutual trust and respect between Councillors and officers is essential, but gives rise to two contrasting requirements. On the one hand, close personal familiarity can damage the relationship and prove embarrassing to other Councillors and officers, but on the other hand, Councillors must bear in mind that officers cannot respond to personal criticism in the same way that other Councillors can, and should temper their remarks accordingly. This is particularly important when Councillors are dealing with less senior staff. When dealing with casework/ward issues, Councillors are encouraged to use the Council's call centre which will assist in the tracking of casework.~~

~~3.4 The normal conduct of business will mean that Councillors may deal directly with some staff below senior level. These dealings will be conducted according to the principles outlined in this protocol and any difficulties should be reported to the relevant Corporate Director.~~

~~3.5 Councillors should bear in mind that unless there is an on-going relationship with a particular member of staff, for example in relation to a case or application they are dealing with, Councillors are expected to deal in the first instance with the Head of Paid Service, Corporate Directors and Heads of Service. This is because:~~

~~(a) Corporate Directors and Heads of Service are in a better position to provide authoritative information or advice;~~

~~(b) they need to be aware of any questions or complaints raised by Councillors;~~

~~(c) they are able to respond to Councillors requests, for example, by making a judgement as to whether action may be taken under officers' delegated authority; and~~

~~(d) they are able to investigate and deal with any shortcomings there might be at the point of service delivery.~~

~~3.6 In addition, this avoids the possibility of staff below the levels identified above being 'intimidated' or even 'bullied' by over-enthusiastic Members.~~

~~3.7 Where there is a serious breach of this protocol, this may lead to action being taken against a Councillor for non-compliance with the Councillors' Code of Conduct.~~

## Part 5 - Codes and Protocols

### ~~4. At Meetings~~

- ~~4.1 Officers and Councillors will most frequently come into contact with each other at the various meetings held to conduct Council business, and at partnership, area and other consultative bodies. The respective roles of Councillors and officers may vary according to the purpose of the meeting and therefore their relationship to each other will also vary. The following basic rule will apply in all situations.~~
- ~~4.2 At all times Councillors and officers will show respect to one another. Although Councillors are entitled to question officers at meetings they must avoid personal attacks on officers and ensure that criticism is constructive and well founded. Officers will expect to have the opportunity to explain what appears to be an inconsistency.~~
- ~~4.3 Wherever a formal public meeting is organised to consider a local issue, all the Members representing the ward(s) affected should, as a matter of course, be invited to attend the meeting. Similarly when the Council undertakes any form of consultative exercise on a local issue, the Ward Councillors should be notified at the outset of the exercise.~~

### ~~5. Working with Political Groups~~

- ~~5.1 Political groups have an important role to play in the development of policy and the political management of the authority. Whilst the operation of the political groups must be supported by the Council, it is important that officers remain politically neutral, and avoid being identified with any political group.~~
- ~~5.2 Officers will give advice and information to any Councillor or group of Councillors on the Cabinet or Overview and Scrutiny Committee.~~
- ~~5.3 If the resource implications of providing information are considerable, the Leaders of the political groups and the Head of Paid Service will discuss and agree what information will be provided by officers.~~
- ~~5.4 Officer advice and analysis will be made available to opposition party groups, for example in relation to preparation of amendments to the budget prior to the annual budget meeting of the Council. Where an opposition party requests significant work by officers that is likely to disrupt other essential work, the Head of Paid Service will be advised and will decide whether the officer resources can be committed.~~
- ~~5.5 Any alleged breach of this protocol shall be referred, in the first instance, to the relevant Corporate Director or Head of Service for investigation in accordance with the Council's disciplinary procedures.~~
- ~~5.6 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.~~

### ~~6. Correspondence~~

- ~~6.1 Correspondence between individual Members and Officers should not be copied by the Officer to any other Member. However, where such correspondence concerns Council policy or, the interpretation of Council policy, in this instance a copy should be sent to the relevant Cabinet Member or Chair of Committee and this should be made clear to the original Member. Under no circumstances should 'silent copies' be made available to a third party, and copies should only be sent to third parties with the express permission of the Member involved.~~
- ~~6.2 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain~~



## Part 5 - Codes and Protocols

~~circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or given instructions on behalf of the Council should never be sent out in the name of a Member.~~

### ~~7. — Reports~~

#### ~~(a) — Political Groups~~

~~7.1 Political groups may request the Head of Paid Service or a Corporate Director to prepare written reports on matters relating to the Council for consideration by the group.~~

~~7.2 Officer reports will be factual and may identify options with the merits or otherwise of these. Reports will not deal with any political implications of the matter or any options set out and recommendations will not be made to a political group.~~

~~7.3 Where a report is prepared for a political group, the Head of Paid Service will advise all other groups that the report has been prepared and will provide a copy to any group on request.~~

#### ~~(b) — Cabinet and Individual Cabinet Members~~

~~7.4 Cabinet Members will take decisions in accordance with the Constitution (Part 4, Cabinet Procedure Rules).~~

~~7.5 Individual Cabinet Members, the Head of Paid Service, Corporate Directors, Heads of Service, the Monitoring Officer and the Chief Financial officer have the right to submit reports to the Cabinet for consideration.~~

~~7.6 All reports must have regard to:~~

~~(a) the requirements of the Committee Reporting Procedure (as incorporated in the Constitution);~~

~~(b) decision making criteria (as incorporated in the Constitution);~~

~~(c) unless there is a legal requirement for a report to be in the name of a 'statutory officer' or 'proper officer', once a report has been through the Cabinet Briefing Process, 'ownership' of the report will be in the name of the individual Cabinet Member.~~

~~7.7 Where officers have given different advice leading to different recommendations this shall be reflected in the decision tracker which accompanies the report.~~

### ~~8. — Officer Attendance~~

~~8.1 Any political group may request the Head of Paid Service or a Corporate Director to attend a meeting of the group to advise on any matter relating to the Council.~~

~~8.2 The Head of Paid Service or Corporate Director may arrange for the attendance of a representative in his/her stead, or may decline to attend or provide representation where he/she believes that the particular issue is of such a political nature that it would be inappropriate to attend.~~

~~8.3 Officer advice will be factual and may identify options with the merits or otherwise of these. Advice will not deal with any political implications of the matter or any option.~~

~~8.4 Where an officer attends a political group, the Head of Paid Service will advise all other groups that the officer has attended and the subject on which he/she has advised.~~

~~8.5 Officers will respect the confidentiality of any matter that they hear in the course of attending a political group meeting.~~

## Part 5 - Codes and Protocols

### ~~9. Working with Overview and Scrutiny~~

~~9.1 The Overview and Scrutiny Committee has the power to require Cabinet Members and officers to appear before them and answer questions, but they may, if appropriate arrange for other staff to attend meetings to assist.~~

~~9.2 The Council has agreed that there will be no formal separation of officer support between the Executive and Scrutiny functions. The Head of Paid Service has overall responsibility for ensuring that staffing support is adequate. The Scrutiny Work Programme is determined by the Overview and Scrutiny Committee who will take into consideration resource issues. It is not anticipated that officers will be faced with conflicts of interest in having to serve both Executive and Scrutiny, but should any problems arise, they should be raised with the Head of Paid Service.~~

### ~~10. Officer Appointments~~

~~10.1 Appointment of the Head of Paid Service (Managing Director) and Statutory Officers are made by Full Council. Appointments of Corporate Directors are made by the Senior Appointments Committee.~~

~~10.2 Staffing matters (including discipline, training, setting and monitoring performance) are dealt with by the relevant managers, though the relevant Cabinet Member may agree the performance targets in the case of Corporate Directors, Heads of Service and Service Managers.~~

~~10.3 Councillors wishing to comment on an individual officer's performance and/or deficiencies are usually expected in the first instance to raise the matter with Head of Paid Service in the case of a Corporate Director, the relevant Corporate Director in the case of a Head of Service or Manager and the relevant Head of Service or Manager in the case of other members of staff.~~

~~10.4 Specific provisions apply in relation to disciplinary action against the three Statutory officers (Head of Paid Service, Monitoring Officer, S151 Officer) (see Officer Employment Procedure Rules in Part 5 of the Constitution).~~

## Part 5 - Codes and Protocols

### MONITORING OFFICER'S PROTOCOL

#### (A) General Introduction to Statutory Responsibilities

1. Under Section 5 of the Local Government and Housing Act 1989 the Authority must appoint a "Monitoring Officer". The Monitoring Officer acts as a "watchdog" over all the Council's activities to ensure legality and propriety. Both the Monitoring Officer and the Council must establish systems and procedures to bring to his or her attention any situations where issues of illegality, maladministration or impropriety may arise.
2. The Monitoring Officer undertakes to discharge his/her responsibilities with determination and in a manner which will enhance the reputation of the Council. In general terms his/her ability to discharge these duties depends on excellent working relations with colleagues and Members but also the flow of information and access to discussion particularly at early stages. In doing so, he/she will provide appropriate and, if necessary, strong advice to Members so as to protect and safeguard, so far as is possible, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
3. It is essential that all staff whether employed by the Council, its partners or its agents are aware of the role of the Monitoring Officer and co-operate with him/her in ensuring that the Council's processes and procedures are constantly monitored to avoid illegality or maladministration. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:-
  - (a) complying with the law of the land (including any relevant Codes of Conduct);
  - (b) complying with any General Guidance issued, from time to time, by the Audit and Governance Committee and / or advice of the Monitoring Officer;
  - (c) making lawful and proportionate decisions; and
  - (d) generally, not taking action that would bring the Council, their offices or professions into disrepute.
4. The following arrangements and understandings between the Monitoring Officer and colleagues and Members are designed to help ensure the effective discharge of their functions:
  - (a) As a member of the Senior Management Team, the Monitoring Officer will have advance notice of those meetings, agendas and reports and the right to attend and speak.
  - (b) The Management Team and any Service Manager will alert the Monitoring Officer to all emerging issues of concern including legality, probity, vires and constitutional issues.
  - (c) The Monitoring Officer or his/her staff will have copies of all reports to the Council and Committees thereof.
  - (d) The Monitoring Officer is expected to develop good liaison and working relations with the District Auditor and the Ombudsman including the giving and receiving of relevant information.
  - (e) The Monitoring Officer will have a special relationship with the Mayor of the Council, Chairman of the Audit and Governance Committee and the Chairman of the Overview and Scrutiny Committee and other Committees and will ensure the Head of Paid Service/S151 Officer have up-to-date information regarding emerging issues.
  - (f) The Head of Paid Service, Chief Financial Officer and Monitoring Officer will meet regularly to consider and recommend action in connection with current government issues and other matters of concern regarding probity and constitutional matters.

## Part 5 - Codes and Protocols

- (g) In carrying out any investigation (whether under Regulations or otherwise) the Monitoring Officer will have unqualified access to any information held by the Council and any employee who can assist in the discharge of their functions.
- (h) The Monitoring Officer will have control of a budget sufficient to enable him/her to seek Counsel's opinion on any matter concerning their functions.
- (i) The Monitoring Officer will be responsible for preparing a training programme for Members on the ethical framework subject to the approval of the Audit and Governance Committee.
- (j) The Monitoring Officer will report to the Council from time to time on the Constitution and any necessary or desirable changes following consultation in particular with the Head of Paid Service and S151 Officer.
- (k) In consultation with the Chairman of the Council and the Chairman of the Audit and Governance Committee, the Monitoring Officer may defer the making of a formal report under Section 5 Local Government Housing Act 1989 where another investigative body is involved.
- (l) The Monitoring Officer will make a report to the Council from time to time as necessary on the staff, accommodation and resources he/she requires to discharge his/her functions.
- (m) The Monitoring Officer will appoint a deputy and keep him/her briefed on emerging issues.
- (n) The Monitoring Officer will make arrangements to ensure good communication with Clerks to the Parish Council within the administrative area.

### (B) Summary of the Monitoring Officer's Functions

See also Scheme of Delegation

Description	Source
1. Review and arrange for the updating of the Constitution and Schemes of Delegation.	The Council's Constitution.
2. Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 Local Government and Housing Act 1989.
3. Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 Local Government and Housing Act 1989.
4. Appointment of Deputy Monitoring Officer.	Section 5 Local Government and Housing Act 1989.
5. Report on resources. Section 5 Local Government and Housing Act 1989.	LGA 2000 Section 66 (1) + 66 (6).
6. Receive copies of Whistleblowing allegations of misconduct.	Code of Conduct and Whistleblowing Policy.
7. Receive and investigate allegations of misconduct in compliance with the Council's arrangements for dealing with member conduct complaints.	Section 28 Localism Act 2011.
8. Establish and maintain registers of Member's interests and gifts and hospitality.	Section 29 Localism Act 2011 and Code of Conduct for Members.
9. Advice to Members on interpretation of Code.	Code of Conduct.
10. Key role in promoting and maintaining high standards of conduct through support to the Audit and Governance Committee.	Ethical framework.
11. Ethical framework functions in relation to Parish Council.	Sections 28 -31 Localism Act 2011.
12. Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members.	DETR Guidance.

## Part 5 - Codes and Protocols

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### **(C) Investigation of Complaint(s) about Members**

This protocol should be read in conjunction with the Council's arrangements for dealing with standards allegations which are designed to assist the Monitoring Officer in the discharge of functions in relation to the dealing with alleged breaches of the Members' Code of Conduct.

1. The Monitoring Officer may investigate an allegation of a breach of the Code of Conduct. These investigations can be related to City Council or Parish Council Members.
2. It is anticipated that the actual investigation is unlikely to be by the Monitoring Officer, but will be by either the Deputy Monitoring Officer or other relevant officer designated as the Investigating Officer by the Monitoring Officer.

## Part 5 - Codes and Protocols

### **PROTOCOL RELATING TO THE INDEPENDENT PERSON**

#### **1. Purpose**

The purpose of this protocol is to make clear the relationships between the Independent Person and the various parts of the local authority involved in the process of handling standards complaints and wider promotion of standards. Its aim is to ensure that responsibility is clear at each stage of the process and to set out the expectations and rights of the Independent Person.

#### **2. Background**

The Independent Person (IP) is a statutory appointment under Section 28 of the Localism Act 2011. The purpose of the IP role is to enable the public to have confidence in how the City Council deals with allegations of misconduct and to promote and maintain high ethical standards of conduct for Members, ensuring they are adequately trained and understand the Code of Conduct.

#### **3. IP Overarching Responsibilities**

The IP will discharge their responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. In particular, by:

- 1) Instilling public confidence in the process and how complaints are considered by the Audit and Governance Committee and Officers in support;
- 2) Complying with:
  - a. the law, including any relevant Code of Conduct;
  - b. any general guidance issued;
  - c. procedures adopted by the Audit and Governance Committee;
  - d. the Council's Constitution;
- 3) Preserving confidentiality at all times; and
- 4) Acting impartially and in the interests of fair and natural justice, without prejudice or political bias.

#### **4. Contact with the IP by Councillors subject to complaint**

A Member of the City Council or of Quedgeley Parish Council who is the subject of a complaint should only contact the Independent Person if a formal complaint has been made in writing to the Council. The Monitoring Officer will notify the IP of all formal complaints. If a Member contacts the IP prior to a formal complaint being lodged, the IP will refer them to the Monitoring Officer.

The IP should not discuss a potential or actual complaint directly with a potential or actual complainant and shall refer the complainant to the Monitoring Officer.

#### **5. Considering written allegations**

The Monitoring Officer will seek the views of the IP in accordance with the Council's standards arrangements. While the Monitoring Officer will have regard to the views expressed by the IP, they are not bound to accept his/her views on the matter.

When issuing the decision letter in respect of any written allegation, the Monitoring Officer will record that the IP has been consulted and that their views have been taken into account.

## Part 5 - Codes and Protocols

Where the view of the Monitoring Officer and IP differ, the Monitoring Officer will record the reasons for following a particular course. The letter will make clear that it is the Monitoring Officer and not the IP who is the decision-maker.

### 6. Matters under investigation

The Monitoring Officer may consult the IP at any stage during the process, particularly on matters which relate to the procedures for handling complaints.

Where a matter has been referred to a Hearings Panel of the Audit and Governance Committee for determination, the Panel must seek the views of the IP before reaching its conclusions. The IP's role is to provide an independent view on the substance of the complaint and/or the quality of the evidence in order to help the Panel to make an informed decision.

The IP may attend the Hearings Panel in person to convey their view or may submit their views in writing to the Hearings Panel.

The IP's views should be recorded in any decision notice and, where those views do not reflect the final outcome reasons must be given for any differences. However, it must be clear that it is the Hearings Panel and not the IP who is the decision-maker.

### 7. Relationship with the Audit and Governance Committee

The IP is not a member of the Council's Audit and Governance Committee but is able to attend all meetings and can be asked to give their views to the Committee.

The IP shall receive agendas and minutes of all meetings of the Audit and Governance Committee and shall be entitled to request that items be added to the agenda, with the agreement of the Chair, and to speak at the Committee.

The IP does not have any voting rights when attending a meeting of the Audit and Governance Committee or a Hearings Panel.

### 8. Access to documentation

The IP has the right of access to any confidential information required to carry out their role. The IP shall respect the confidentiality of any documents provided to them and shall be responsible for their safe custody.

The IP has the right of access to Council buildings in order to carry out their role. This includes making meeting rooms available for use by the IP. Access should be agreed in advance with the Monitoring Officer.

The Monitoring Officer will meet at least quarterly with the IP review relevant matters.

The IP will agree to sign up to the Council's Code of Conduct, including a register of interests to be held by the Monitoring Officer and will declare any relevant interests in any matter to the Monitoring Officer, who will decide whether the interest conflicts them out of involvement in the matter.

## Part 5 - Codes and Protocols

### 9. Confidentiality

The IP must not discuss with any third party the substance of any past or present complaint or other matter raised with them by the Monitoring Officer.

The IP shall not make any comments to the media on any matter without prior agreement of the Monitoring Officer or Council Communications Team. Any requests for comments from media shall be referred in the first instance to the Monitoring Officer who may refer these to the Chair of the Audit and Governance Committee as appropriate.

### 10. Other matters

The Council, through its Audit and Governance Committee and Monitoring Officer, is responsible for ensuring that the Council meets its duty to promote and maintain high standards. However, the IP has the right to be consulted on any proposed changes to the Code of Conduct or procedures for handling allegations.

The IP has the right to raise any concerns about standards issues or implementation of the process with the Council's Head of Paid Service and has the right to address a meeting of the full Council about any concerns.

The Monitoring Officer may ask the IP to support their efforts to try to resolve complaints informally where the basis of the complaint appears unsubstantial or otherwise does not appear to warrant a formal investigation or where an alternative route to formal investigation would appear to offer a better means of resolving the matter.

### 11. Role of reserve IP

Where the IP is unable to act because of a conflict of interest or because they are otherwise unavailable their role will be carried out by the reserve IP.

If both the IP and the reserve IP are conflicted out from dealing with a matter, the Monitoring Officer will consider making a request to use the services of an IP from another principal authority.





## **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, Development Plan  
and discussions with developers**

## Part 5 - Codes and Protocols

### CONTENTS

	<b>Page</b>
<b>Introduction</b> .....	38
<b>Part A: General Principles</b>	
• Gifts and Hospitality .....	39
• Declarations of Interest.....	39
• Involvement with Agents, Developers and Landowners.....	39
• Meetings with Agents, Developers and Landowners.....	41
• Independence and Impartiality of Planning Officers .....	43
• Submission of Planning Applications and Development Plan Representations by Officers and Councillors .....	43
<b>Part B: The Decision Making Process</b>	
• Lobbying of Councillors .....	45
• Reports to Planning Committee/Cabinet/Council .....	46
• Voting and Impartiality .....	47
• Decisions Involving Council-Owned Land.....	48
• Political Decisions.....	49
• Deferrals and Committee Site Visits .....	49
• Committee Process .....	49
• Planning Committee Decisions .....	50
• Public Attendance.....	51
<b>Part C: Administrative Matters</b>	
• Member and Officer Training.....	52
• Record Keeping.....	52
• Complaints.....	52

## Part 5 - Codes and Protocols

### 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 Plan.

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, 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 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 at:

[www.gloucester.gov.uk](http://www.gloucester.gov.uk)

## Part 5 - Codes and Protocols

### 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 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 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 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).

## Part 5 - Codes and Protocols

The same rule applies if a Member's employer submits an application, 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 or 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 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 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 Members should advise prospective applicants to contact the appropriate Officer for advice on both merits and procedures. If Members 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. They should also make clear that Officers and/or the Planning 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 Members have discussed any such proposal with the applicant or objectors must be made clear when the application or 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 Development Plan matter.

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

## Part 5 - Codes and Protocols

The Council employs professional Planning Officers whose job is to deal with the applications and 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 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 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 made.

- 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 Development Plan process or the determination of a planning application).**

## Part 5 - Codes and Protocols

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 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.***

**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.***

## Part 5 - Codes and Protocols

**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 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 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 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 5 - Codes and Protocols

### 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, 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 Control. In all circumstances copies of any letters, documents or correspondence should be given to the Planning Officer to consider and comment on.

## Part 5 - Codes and Protocols

**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 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, 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, Cabinet and Council and where appropriate for 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 Control 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 Control Services Manager.***

## Part 5 - Codes and Protocols

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 Control 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 Control 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, Cabinet and Council.

Matters to be discussed by Members at 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 Development Plan including Cabinet, Council and 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.

## Part 5 - Codes and Protocols

**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 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, 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 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.

## Part 5 - Codes and Protocols

**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 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 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 to 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 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:

## Part 5 - Codes and Protocols

- 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. Occasionally, at the discretion of the Chair, more than two speakers may be permitted although an equal amount of time for speakers for and against will be 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 Control 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.

## Part 5 - Codes and Protocols

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These principles do not apply directly to decisions pertaining to the drafting of the 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, 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 5 - Codes and Protocols

### PART C – ADMINISTRATIVE MATTERS

#### Member and Officer Training

**C1. Any Member who is on the Planning 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 Control Service 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 Development Plan system prior to their consideration of Development Plan matters.**

**C3. Councillors will in return undertake to educate themselves on the implications of the 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 Control 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.



## Part 5 - Codes and Protocols

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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 5 - Codes and Protocols

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## **PROBITY IN LICENSING AND ENFORCEMENT**

### **CODE OF PRACTICE**

REVISED JULY 2012

**A guide to the protocol and procedures to be  
followed by Officers and Members  
involved in making decisions  
on Licensing applications and  
other Licensing matters**

## Part 5 - Codes and Protocols

### CONTENTS

<b>Introduction</b>	<b>57</b>
<b>Part One: Principles and Rules - Conduct of Councillors and Officers</b>	
<b>A</b> Voting and Impartiality.....	58
<b>B</b> Gifts and Hospitality .....	59
<b>C</b> Independence and Impartiality of Officers .....	59
<b>D</b> Declarations of Interests .....	60
<b>E</b> Involvement of Councillors with Applicants .....	60
<b>F</b> Council Licensing Applications .....	61
<b>G</b> Lobbying of Councillors and Formal Submission of Information....	61
<b>H</b> Political Decisions on Licensing Applications .....	62
<b>I</b> Application by Councillors, Officers or their relatives or friends.....	62
<b>Part Two: Principles and Rules -The Decision Making Process</b>	
<b>A</b> Pre-Application Discussions .....	63
<b>B</b> Reports to Committee .....	63
<b>C</b> The Committee Hearing .....	64
<b>D</b> The Committee's Decisions .....	66
<b>E</b> Deferrals and Site Visits .....	66
<b>F</b> Public Attendance at Committee Meetings .....	66
<b>Part Three: Administrative Matters</b>	
<b>A</b> Member Training .....	68
<b>B</b> Record Keeping .....	68
<b>C</b> Complaints .....	68
<b>D</b> Further Advice .....	68

## Part 5 - Codes and Protocols

### Introduction

Gloucester City Council's Licensing and Enforcement Committee operates in a quasi judicial way in determining contentious licensing applications, policy issues and related matters. Most applications are free of objection and are determined under powers delegated to the Public Protection Manager. This Code is written having regard to the Council's commitment to the principles of good enforcement, particularly openness and consistency, that are included within the national Enforcement Concordat.

The Committee deals with major and contentious applications and most policy and policy guideline issues. Applications are referred for Members' consideration where they are contentious and/or 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. Hackney Carriage and Private Hire disciplinary matters are also dealt with by the Committee in accordance with the provisions of the Council's adopted General Conditions for Hackney Carriage and Private Hire Licensing.

The decisions that the Committee makes are significant and weighty. The Committee operates, for the most part, under its extensive delegated powers and it, rather than any other part of the Council, actually makes the decisions. The decisions can have a considerable effect on the value of premises or other capital assets, on the amenities of people living near licensed premises and on the lives of applicants. Furthermore if the Committee makes a wrong or irrational decision this may mean that the Council will face substantial costs if there is a successful appeal against the decision or if the decision is the subject of a legal challenge from an aggrieved third party.

Some licensing legislation specifies procedures to be followed but in all cases human rights and natural justice considerations dictate that the Committee adheres to the following principles in that decisions **must**:

- be made on the individual merits of a case;
- have regard to all relevant national and local guidance;
- be made impartially and in good faith;
- be made by the body that receives all the relevant information and evidence;
- relate to the issue or question placed before the Committee;
- be based only on consideration of relevant and material matters;
- be rational and reasoned;
- be made in a way that does not give rise to public suspicion or mistrust.

The purpose of this local Code of Practice is to set out in detail how Members should act and the procedures which should be followed to ensure that Members 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 Licensing and Enforcement Committee but its content is also relevant to all other Members and also to Officers in all other service units. It is based on and is similar in content and effect to a code has been adopted by the Planning Committee.

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 is part of the Council's Constitution and can be viewed on-line at [www.gloucester.gov.uk](http://www.gloucester.gov.uk)

## Part 5 - Codes and Protocols

### PART ONE: CONDUCT OF COUNCILLORS AND OFFICERS

#### A. Voting and Impartiality

1. ***Licensing and Enforcement Committee Members must vote in the best 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 licensing assessment in the light of wider policies and guidance.***

The over-riding duty of a Committee Member is to the whole community, rather than just the people living in their Ward. This is a fundamental principle of the local democratic system.

2. ***Members of the Licensing and Enforcement Committee must not declare which way they intend to vote in advance of the consideration of an application by the 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 a charge 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.

3. ***If a Member of the Licensing and Enforcement Committee declares OUTRIGHT support for or opposition to a proposal before the matter has been put before the Committee, the Member must make an open declaration of their views to the Committee and take no part in the voting on that particular item.***

This rule follows on from item 2 above. It does not mean that Members cannot make a comment or reflect local concerns about a proposal before the Licensing and Enforcement Committee considers it. However the view or comment must not pre-determine or be seen to pre-determine the way that Member will vote.

4. ***Licensing and Enforcement Committee Members who are also members of the County Council or the Parish Council must exercise particular care in reconciling their two roles.***

This rule would apply in the case of a Member(s) holding office in both the City Council and the County Council or Quedgeley Parish Council. Such Member(s) may find that they are expected to express a view at a the County Council or Parish Council meeting or vote on whether or not the Parish should object or comment on a proposal from a County or Parish point of view. In such circumstances Members are advised to abstain from both the debate and voting at the County or Parish Council. 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 licensing proposal at a County or Parish Meeting, or elsewhere, they must make an open declaration to the City Council's the Licensing and Enforcement Committee to that effect and take no part in the voting debate and on that item, and leave the meeting.

5. ***Licensing and Enforcement Committee Members should not organise support for or against a Licensing application and should not lobby other Councillors.***

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 Member should make up his or her own mind on the evidence and facts presented to the Committee

## Part 5 - Codes and Protocols

(See Section G on lobbying). With regard to other Members it could give the impression that they were seeking to influence Committee Members (see section G on lobbying).

- Licensing and Enforcement Committee Members must not favour or show bias for or against any particular person, company or group, or any particular site or locality in respect of licensing matters.***

They should also not put themselves in a position where they may appear to do so.

- Confidentiality***

It will be unusual for licensing applications or other matters to be treated as confidential items with the exclusion of the press and public, but it may occur.

The grounds why this may occur are set down in the Local Government Act 1972 and the Council's Constitution, and are most likely to be in relation to the conduct of legal proceedings, or disclosure of personal details.

Information which is of a confidential nature may also be provided to Members outside Committee.

Members are expected to treat the information as confidential and are referred to the Code of Conduct which indicates that a breach of this confidentiality may be a breach of the Code of Conduct and result in a complaint to the Monitoring Officer and/or the Audit and Governance Committee.

### **B. Gifts and Hospitality**

- 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.***

The policy on gifts and hospitality is contained in the Council's Constitution and Members and officers must be extremely careful in this respect to ensure 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.

### **C. Independence and Impartiality of Licensing Officers**

- Members or other Officers within the Council must not instruct Licensing Officers to make or not to make a particular recommendation on a licensing application.***

Licensing Officers are trained to deal with licensing issues and will be aware of Government advice, case law etc., and will put forward a professional recommendation. Other officers will help inform that recommendation.

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

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

## Part 5 - Codes and Protocols

Where an appeal has been made against a decision made against officer recommendation officers will always present the Council's case to the best of their ability.

### D. Declarations of Interest

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

The Council adopted its Code of Conduct on 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.

### E. Involvement of Councillors with Applicants

**1. *Members of the Licensing and Enforcement Committee should not act as agents, or submit licensing applications for other parties or voluntary bodies.***

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

**2. *Any Member who is a Licensing advisor or similar agent will not be appointed to the Licensing and Enforcement Committee.***

Where Members need to submit licensing applications 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 premises / land / vehicle(s) etc owned or controlled by serving Members should only be determined by the Licensing and Enforcement Committee. The Committee alone should determine an application submitted by a Member's employer, irrespective of whether the Member is involved in the application, its preparation or submission.

### F. Council Licensing Applications



## Part 5 - Codes and Protocols

**1. *Proposals to licence the Council's own land or premises must be dealt with the same as all other applications on their own merits.***

The Council's own proposals, or those of others on Council owned premises/ land, must be dealt with on exactly the same basis as applications submitted by any other applicant. 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 licensing proposal.

**G. Lobbying of Councillors and Formal Submission of Information**

**1. *Any lobbying of Members must be dealt with carefully to minimise the perception of influence***

This is a complex area and one that requires special care. Lobbying is an attempt to influence a Member's view in writing or verbally in order to achieve a particular decision by applicants, agents, objectors or other Councillors. It is a normal part of the political process but where Members are making statutory decisions, such as licensing 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 licensing case officer in order that they can be formally considered in a balanced way at the Committee meeting. Alternatively Members may choose to pass on the views and or submissions of lobbyists to the officer but should make clear that they are not giving their own views, as this is a matter for formal consideration by the Licensing and Enforcement Committee.

Licensing decisions must be rational and be made strictly on the basis of the relevant facts, guidance 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.

Lobbying can be particularly problematical if Members are given information or assurances by applicants that do not form part of their formal application and are, therefore, unenforceable. Problems can also arise if Members are given information by objectors which may be misleading, untrue or irrelevant. Officers face particular difficulties if they are unaware of submissions by applicants and objectors and are therefore unable to consider them and advise the Committee about them.

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.

**2. *Licensing applications must be determined on the basis of the documents and information that have been formally submitted and where all parties have had a proper opportunity to consider them.***

Only submissions from applicants, agents or objectors, which are formally received by licensing officers, can properly be taken into account in making a decision. The Committee could be materially misled if Members or other parties circulate 'unofficial' documents or introduce new information on behalf of an applicant or objector, or express what they believed to be an applicant's intention, if this did not form part of the application documents and correspondence. In all circumstances copies of any letters, documents or correspondence

## Part 5 - Codes and Protocols

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should be given to the licensing officer to consider and comment on. Where fresh information comes to light after a Committee report has been finalised and circulated it may only be tabled with the Chair's consent.

### H. Political Decisions on Licensing Applications

1. ***Decisions on licensing applications or the establishment of "party lines" cannot be made in political group meetings prior to a committee 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.

### I. Application by Councillors, Officers or their relatives or friends

1. 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 applications, all such applications will be reported to Committee.

## Part 5 - Codes and Protocols

### PART TWO: THE DECISION MAKING PROCESS

#### A. Pre-Application Discussions and Negotiations on submitted applications

1. ***Councillors should not, themselves, seek to advise applicants or agents about the likely acceptability of licensing proposals.***

Pre application discussions should always be undertaken by the Council's officers to ensure that advice is given professionally, comprehensively and in a way that is clearly removed from the political forum. Licensing and Enforcement Committee Members should advise prospective applicants to contact the appropriate officer for advice on both merits and procedures. If Members, whether or not they sit on the Licensing and Enforcement Committee, 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 Licensing and Enforcement Committee. They should also make clear that officers and/or the Licensing and Enforcement Committee could only make a final decision after a full and formal consideration of the proposal.

Similarly Members should not normally be involved in negotiations and discussions about submitted applications. 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 officer is present. The officer(s) will make a written record of any such meetings held and will place a copy on the application/premises file. Such a record will constitute a Background Paper for the purposes of the Access to Information Act and may be inspected by any interested person.

The fact that Committee Member(s) have discussed any such proposal with the applicant or objectors must be made clear when the application is before the Committee for determination. Under no circumstances should Members put pressure on Officers to make, or change, any recommendations on an application.

2. ***Officers role in processing licensing applications***

The Council employs professional Officers whose job is to deal with the applications 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.

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

#### B. Reports to Committee

1. ***Officers will provide written reports for all matters to be considered by the Licensing and Enforcement Committee (with the exception of matters of urgency) or when Committee has requested verbal updates on ongoing matters).***

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 Public Protection Manager will provide a detailed verbal report on the issue, explaining why it is urgent and providing recommendations. This shall be minuted.

## Part 5 - Codes and Protocols

Members are also permitted to raise matters of urgency under the Local Government Act 1972. However if they do intend to do this the Licensing 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 the Licensing and Enforcement Committee who must give reasons as to why it is considered to be an urgent item.

2. ***Officer reports to the Licensing and Enforcement Committee will be accurate and will, subject to statutory requirements, comprehensively cover all relevant: i) policies, guidance, considerations and issues; ii) information about the application/case; and, iii) the views of consultees and objectors.***
3. ***In all cases applicants/licensees will be given the opportunity of providing written material for inclusion in the report. Where they rely upon case law they will be required to give advance notice of the case(s) in question.***
4. ***Each committee report will include a clear recommendation.***

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

If the report is not by the Public Protection Manager the reason for this will be included in the report.

5. ***Members must read and carefully consider the content of the circulated report before the meeting and they must have regard to its contents in reaching their decisions.***

Written reports have always been a cornerstone of probity in the Council's system for committee determination of licensing matters. In the context of planning malpractice the Audit Commission and others have made it clear that written reports are essential, and the same principles should apply to the Council's licensing functions.

### C. The Committee Hearing

1. ***The Council's Standing Orders will apply to the conduct of business.***
2. ***Applicant/Licensees will be invited to attend the committee and be represented if they so choose, they will be sent a copy of the report about their application/case.***

If they do not attend the Committee can deal with their item in their absence on the basis of the written report and the procedure as set out below.

#### 3. Committee Procedure

- Chair introduces the item on the Agenda, briefly stating what it is about and inviting applicant/licensee/representative(s) to come forward to be seated. Where exempt information under the Local Government Act 1972 (as amended) is included in the report it will be written and circulated as a confidential item. In such cases the Chair will offer the licensee/representative(s) the opportunity of a public hearing and the press and public will only be excluded once a preference for a confidential hearing has been expressed. The press and public will generally be excluded from all meetings considering sensitive matters, such as hackney carriage and private hire enforcement cases, but the

## Part 5 - Codes and Protocols

decisions from such meetings will be announced in public and published on the Council's website.

- The report author or other appropriate Officer presents the report to the Committee, outlining the key issues and background to the recommendation(s). This must be done in a maximum of 10 minutes unless the Chair expressly approves otherwise. Members and the applicant/licensee will have the opportunity of asking the Officer questions.
- In appropriate cases, objectors will be given the opportunity to make representations through their appointed spokesperson, this must be done in a maximum of 10 minutes unless the Chair expressly approves otherwise. The applicant/licensee, Members and, if appropriate Officers, will have the opportunity of asking the spokesperson questions.
- The applicant/licensee (or their representative) will present their application / case and, if they choose, put forward witnesses. This must be done in a maximum of 10 minutes unless the Chair expressly approves otherwise. The applicant/licensee may be asked questions by Members and in some cases by officers and representatives of statutory bodies who are licensing consultees, e.g. the Police.
- The Chair will then invite responses from Officers and if appropriate the representatives of statutory bodies. The applicant/licensee (or their representative) and Members are to be given the opportunity to ask questions.
- The applicant/licensee (or their representative) will be given the final right of reply.
- The Committee Members debate the application and reach their decision. In cases involving disciplinary matters the applicant/licensee/representative, witnesses, Officers (except the Committee Clerk and Committee's Solicitor/Legal Advisor) and representatives of statutory bodies will be asked by the Chair to leave the room whilst the Committee deliberates. The Committee Clerk and the Committee's Solicitor/Legal Advisor will remain with the Committee Members to record the proceedings and to advise on the law and legality of decisions.
- When the Committee has reached a decision all parties will be invited to re-enter the room before it is announced.
- The decision will be confirmed in writing, giving reason(s) for the decision, and details of any appeal rights. The decision notice/letter will be sent as soon as practicable after the meeting and any statutory time-scales will be followed.
- The following good practice rules assist the smooth operation of the Committee and promote probity:
  1. The meeting will be conducted without any undue formality.
  2. 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 (see rule on lobbying in Part 1 section G).
  3. Members should seek any necessary clarification from Officers on any key issues before the meeting as this enables full replies to be given.
  4. Members should not introduce any non-licensing matters to the debate.
  5. Members should not speak at length on items where they are in full agreement with the Officer report.
  6. At the discretion of the Chair of the Committee a Ward Councillor(s) may be allowed to speak at Committee to express their own views or those of their constituents

## Part 5 - Codes and Protocols

### D. The Committee's Decisions

1. ***Where Members propose to make a decision contrary to the Officer recommendation clear licensing reasons must be established and these must be seconded and minuted.***

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

2. ***The Chair will allow the Licensing Officer or other representative of the Public Protection Manager to comment before a vote is taken.***

Decisions must be reasoned, rational and in accordance with the facts of the case and have regard to the provisions of all relevant policies and guidance. However decision-making requires assessment and judgement of the weight to be attached to policies and guidance issues which, no matter how current, will never provide an answer for all, or even most, applications. Any decision made by the Licensing and Enforcement Committee which is contrary to the provisions of existing policy or guidance must be clearly justified and recorded.

### E. Deferrals and Committee Site Visits

1. ***Where Members propose to defer consideration of an application they must set out clear reasons for doing so and these will be minuted.***
2. ***All site inspections whether involving Members individually, or collectively, will be conducted in a strictly fact finding way and there shall be no on site debate about the merits of the proposal, or any negotiations, or discussions with applicant, agents or residents.***

A proposal to defer any application must be valid and defensible. 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.

### F. Public Attendance at Committee Meetings

1. ***Most Licensing applications on the Committee agenda will be considered in public session.***

Open public debate is a fundamental prerequisite of probity in the Licensing system. However where exempt information under the Local Government Act 1972 (as amended) is included in a report it will be circulated as a confidential item and, subject to the applicant/licensee's right to a public hearing such items will be considered with press and public excluded.

Any person in attendance at the Licensing and Enforcement Committee meetings is entitled to make use of the Public Question Time and Petitions and Deputations agenda items to speak. Applicants, licensees or their agents will only be allowed to speak or make representations during consideration of their particular agenda item in accordance with (Part Two) Section C above.

## Part 5 - Codes and Protocols

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Any member of the public who disrupts the meeting in any way will not be allowed to remain in the room.

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

Members of the Committee 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 Officers.

## Part 5 - Codes and Protocols

### PART THREE: ADMINISTRATIVE MATTERS

#### A. Member Training

Members who are exercising powers to grant or refuse applications are exercising a quasi judicial function, in an area where there is a large amount of Government advice and Law. Members must ensure they are adequately trained to carry out the task. Accordingly any Member who is on the Licensing and Enforcement Committee must take part in training organised 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 Licensing and Enforcement Committee must attend refresher training at least once every 3 years. Any Member of the Licensing and Enforcement Committee who has not undergone refresher training in accordance with this Code of Practice will not be permitted to vote on any licensing applications. Accurate records of Member training will be kept by Licensing Officers.

Members are also encouraged to research pertinent issues by reference to the Public Protection Manager who can arrange access to publications, legislation, policy documents and guidance.

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.

#### B. Record Keeping

Officers will ensure that Licensing application records contain sufficient information so that the reason for the ultimate decision can be understood by anyone who reads a file / record without a detailed knowledge of the application.

#### C. Complaints

Any complaints received in writing about the way in which a Licensing application or other licensing matter have been dealt with in terms of procedures or fairness, will be investigated under the Council's Complaints Procedure. 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 endeavour 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 Monitoring Officer regarding breaches of the Code of Conduct.

#### D. Further Advice

This Code deals with the main issues of probity and conduct but cannot be expected to cover all eventualities that may arise. If Members are in any doubt about any probity related issue they are advised to contact the Licensing Officer or the Public Protection Manager.



## PROTOCOL ON RECORDINGS AT MEETINGS

### 1. Introduction

- 1.1 This Protocol provides guidance to members of the public or press who wish to record proceedings at any of the Council's public meetings.
- 1.2 Gloucester City Council supports the principles of openness and transparency and allows recording at its meetings that are open to the public, subject to the provisions of this Protocol
- 1.3 The Council already makes facilities available for reporting on its meetings and these facilities include:
  - Publication of agendas, reports and minutes on the Council's website;
  - Provision of a 'public gallery' from which the proceedings of meetings can be observed – including a designated area for journalists.
- 1.4 For the purposes of this Protocol, 'recording' includes sound recording, photography and filming.
- 1.5 Failure to follow the provisions within this Protocol may result in the Mayor/Chairman refusing to allow the proceedings to be recorded.

### 2. Before the meeting

- 2.1 There is generally no requirement for those wishing to record proceedings at a meeting to notify the Council in advance. However, as a matter of courtesy, anyone wishing to record proceedings at a meeting is advised to make the Mayor/Chair aware that they wish to do so before the meeting starts.
- 2.2 Those intending to bring large items of equipment or who may have special requirements are advised to contact the Council's Policy and Governance Manager in advance of the meeting to seek advice and guidance.
- 2.3 The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

### 3. At the meeting

- 3.1 Notices will be displayed in the meeting room advising those present that the proceedings may be recorded and the Mayor/Chairman will make an announcement to this effect at the beginning of the meeting. Meeting agendas will also carry this message.
- 3.2 The Council understand that some members of the public attending its meetings may not wish to be recorded whilst using their right to speak. Members of the public attending a meeting, whether to ask a question, present a petition, make a representation or view proceedings from the public gallery, and who actively object to being recorded, should not be recorded. The Mayor/Chairman will remind all present at the start of the meeting of the right not to be recorded and will take reasonable steps to ensure that any request not to be recorded is complied with.
- 3.3 Recording must take place in such a way as to ensure that the view of Councillors, officers, the public and press is not obstructed.
- 3.4 Where any meeting goes into exempt session, all recording equipment must be switched off and removed from the meeting room.
- 3.5 The Mayor/Chairman has absolute discretion to terminate or suspend any recording activities if, in their opinion:

- (a) continuing to do so would prejudice the proceedings at the meeting; or
  - (b) the recording is disruptive or distracting to the good order and conduct of the proceedings; or
  - (c) the person recording is in breach of this Protocol.
- 3.6** If a person refuses to stop recording when requested to do so by the Mayor/Chairman, the Mayor/Chairman will ask the person to leave the meeting. If the person refuses to leave, the Mayor/Chairman may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption.
- 4. After the meeting**
- 4.1** Any recordings made of Council proceedings must not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by Councillors, Officers or others speaking at the meeting or in a way that infringes the core values of the Council. This includes refraining from editing the views being expressed in a way that may ridicule or show a lack of respect towards those being recorded.
- 4.2** If any person fails to comply with this Protocol when recording proceedings of the Council, the Mayor/Chairman may refuse to allow this person to record any future meetings.
- 4.3** The Council takes no responsibility for any recording made by a third party or its subsequent use.

## **MEMBERS' WORKING GROUPS PROTOCOL**

1. The Council, any committee of the Council, the Cabinet or an individual Cabinet Member may set up a Working Group to work through a particular issue and report back to its parent committee.
2. A Working Group is not a Committee or Sub-Committee under the Local Government Act 1972. Therefore the public and press do not have a right to attend or see the agenda papers, although the Working Group may invite outside parties to contribute. The term 'Working Group' does not include Overview and Scrutiny Task and Finish Groups.
3. Group Leaders will be consulted regarding all requests to establish a Working Group. Group Leaders will control the overall number of such groups, ensure their purpose is clear and necessary, and their reporting back arrangements are appropriate. Ideally, the purpose of the Working Group should be linked to the Council Plan objectives and assist in their delivery.
4. A Working Group should consist of at least 3 Members, nominated by Group Leaders, one of whom will be appointed as the Chair of the Working Group by the Committee or Cabinet Member setting up the Working Group. Working Groups should have cross-party representation where possible.
5. When it is established, the Working Group must be set clear Terms of Reference by the parent Committee or Cabinet Member. (The terms of reference can be altered by the parent Committee, or, in the case of a Cabinet Member, the terms of reference can be altered by the Cabinet Member with the agreement of the Working Group, during the lifetime of the Working Group).
6. The Working Group should have a finite life. (This should normally be no more than one year).
7. The Chair of the Working Group will co-ordinate the activity of the Working Group within the Terms of Reference. There should be a formal Agenda for each meeting drawn up by the Chair, so that members of the group are clear about the purpose of the meeting.
8. Agendas and notes of the meetings will normally only be circulated to members of the Working Group.
9. A Working Group may call on relevant Officers to give advice and assistance following discussions between the Working Group Chairman and the relevant Corporate Director or Head of Service. Any requests for administrative support must be agreed prior to the Working Group being established and if support is not available the Working Group will consider whether or not it is able to proceed.
10. A Working Group will not normally be allocated a budget.
11. Consideration should be given to making Progress Reports to the parent Committee or convener in appropriate cases. These may be made orally or in writing.
12. A final report must be presented to the parent Committee or Cabinet Member, listing the Working Group's recommendations.

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### ***TERMS OF REFERENCE FOR MEMBERS' WORKING GROUPS***

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***The Terms of Reference and objectives of Members' Working Groups will vary depending on the subject being addressed. However, below is a suggested list of areas which the***

*parent committee, or Cabinet Member, may wish to address when setting up the Working Group;*

<i>Parent Committee/Cabinet Member</i>	
<i>Topic</i>	
<i>Membership (and Chair)</i>	
<i>Aims &amp; Objectives (Outcomes to be achieved)</i>	
<i>Scope</i>	
<i>Relevant Council Plan Objective(s)</i>	
<i>Review Period</i>	
<i>Officer support</i>	
<i>Review completion date</i>	
<i>Frequency of Meetings</i>	
<i>Proposed reporting routes/dates</i>	
<i>Training Requirements</i>	

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## PETITIONS AT GLOUCESTER

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The Council welcomes petitions and recognises that petitions are one way in which people can convey their concerns. All petitions sent or presented to the Council will receive an acknowledgement within 10 days of receipt. This acknowledgement will set out the process for dealing with the petition.

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### Who Can Submit a Petition?

Petitions can be initiated by people of any age, so long as they:

- Live in Gloucester or
- Work in Gloucester or
- Study in Gloucester (including under 18's)

If the content of the petition refers to a citywide matter, 50 signatories are required. If the matter relates to one Ward only, then 20 signatories are required.

Paper petitions should be sent to :

Democratic and Electoral Services Team, Gloucester City Council, PO Box 3252, Gloucester GL1 9FW.

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e-petitions should be submitted to [democratic.services@gloucester.gov.uk](mailto:democratic.services@gloucester.gov.uk)

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Petitions can also be presented to a meeting of the Council either by a Member of the Public or by a Councillor on their behalf. The Democratic and Electoral Services Team should be contacted at least 5 days before the meeting on 01452 396167 or by using the above email address

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Details of the arrangements for Council Meetings can be found on the City Council's website.

### What Can A Petition Be About?

Petitions can be relative to matters where the City Council controls the relevant service and information relating to the services of the City Council is available on the website <http://www.gloucester.gov.uk/A-ZofServices.aspx>.

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If the petition is about something over which the Council has no direct control, for example transport or health related matters, representations can be made on behalf of the community to the relevant body. The Council works with a large number of local partners and, where possible, will work with these partners to respond to petitions. If this is not possible then the reasons will be explained to the lead petitioner.

If the subject of the petition relates to another Council then the petition will be forwarded to that Council and the lead petitioner advised of this action.

There are some reasons why a petition would not be considered under this scheme. These are:

- 1 A similar petition has been received in the last 6 months
- 2 Contains false statements
- 3 Discloses information which is confidential or exempt (for clarity on this, please contact Democratic Services Team)
- 4 Makes criminal accusations
- 5 Contains advertising statements
- 6 Refers to an issue which is subject of a formal Council complaint, a complaint being handled by the Local Ombudsman or is the subject of legal proceedings
- 7 Relates to individual planning or licensing applications, which are subject to statutory processes (Democratic Services staff will provide advice on this issue if requested). However, whilst individual cases, applications and appeals cannot be the subject of a petition, overall policy in these areas can.

**Note –** Petitions on individual planning or licensing applications can still be handed in to the appropriate Committee at the time of consideration of the application. Please contact Democratic and Electoral Services team for further advice.

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In addition, in the period immediately prior to an election certain topics may be deemed politically sensitive and petitions relating to such items may be dealt with differently.

### **Content of Petition**

All petitions must include a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take.

**Paper petitions** must include the name, address and signature of any person supporting the petition.

**e-petitions** must include the name, postcode and a valid email address of each person supporting the petition. It must also state how long it will be open for signatures up to a maximum period of 12 months

**Each type of Petition should be accompanied by contact details, including an address, for the petition organiser. This is the person who will be contacted and given details of the response process.**

### **What Happens After The Petition Is Submitted?**

An acknowledgement will be sent to the petition organiser within 10 working days of receipt of the petition. This will also contain information regarding what action is being taken and when

the organiser is likely to be contacted again. The details of the petition will also be published on the Council's website. No action will be taken on petitions deemed to be vexatious, abusive or otherwise inappropriate and reasons for this would be set out in the acknowledgement.

e-petitions created and submitted through the Council's website may take 5 working days before being published online to enable a check to be carried out for the suitability of the content prior to being made available for signature. If it is felt that there is a reason why the e-petition cannot be published, the creator will be contacted to allow for the details to be changed and the e-petition resubmitted. If this is not done within 10 working days, a summary of the petition and the reason(s) why it has not been accepted will be published on the "Rejected Petitions" section of the website. The creator of an e-petition will also be advised if the petition cannot be carried forward owing to insufficient signatories.

All petitions submitted will be drawn to the attention of the appropriate Ward Councillor(s) and to the relevant Cabinet Member.

#### **Who Can Sign a Petition?**

All signatories to the petition should live, work or study in Gloucester, and can be of any age and must provide their full name and address.

e-petitions require a valid email address. Any duplications or bogus signatories will be deleted from the list, and all details of valid respondents will be passed to the lead petitioner.

These details are required to confirm eligibility as a signatory but they will not be published on the website. Officers from the Council may contact signatories regarding the petition, but signatories can request that this does not happen.

#### **How Will The Council Respond To Petitions?**

The Council's response to a petition will depend on what it is requesting and the number of signatories but action taken may include one or more of the following:

- Taking the action requested in the petition
- Considering the petition at a Council Meeting
- Holding an inquiry into the matter
- Undertaking research into the matter
- Holding a public meeting
- Undertaking consultation
- Holding a meeting with petitioners
- Referring the petition to Overview and Scrutiny Committee for consideration
- Calling a referendum
- Writing to the petition organiser setting out views of the Council on the request contained in the petition.

#### **Council Debate**

If a petition's signatures number more than 1000, it would automatically trigger a debate to be held at full Council. A decision on the appropriate response should be taken at that meeting

(be that to approve the petition's request, decline it or commission further research).

**Request to Call an Officer to Account**

A senior officer from the City Council, nominated from the attached schedule, must to appear to give evidence before the Overview and Scrutiny Committee on the subject of the petition if such a request is included in the petition and there are more than 500 signatories.

**Appeals Process**

If the lead petitioner is dissatisfied with the response to a petition, then they can ask for a review of the response. This must be submitted within 28 days. The review will be undertaken by the Overview and Scrutiny Committee, who will rule on the complaint. Lead petitioners are asked to note that the rejection of their petition is not adequate grounds for appeal, it needs to be provable that the petition was handled improperly. The outcome of the review will be published on the Council's website. If the appeal relates to a petition which the Overview & Scrutiny Committee had considered then the review should be completed by a Task & Finish group of the Overview & Scrutiny Committee which was composed of non-executive Members not on the Committee.

For further assistance on this, contact Democratic Services.

by email ([democratic.services@gloucester.gov.uk](mailto:democratic.services@gloucester.gov.uk)) or

by letter (Democratic and Electoral Services, Gloucester City Council, PO Box 3252, Gloucester, GL1 9FW) or

by telephone (01452 396127).

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**PETITIONS SCHEME**

Relevant Officers who may be called to account at Overview and Scrutiny Committee:

Managing Director  
Corporate Director 1  
Corporate Director 2

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**Part 6 - Members' Scheme Of Allowances  
2018 - 19**

**Schedule 1 – Representation on Outside Bodies**

Members' Allowances

The Gloucester City Council, in exercise of the powers of the Local Authorities (Members' Allowances) Regulations 2003, hereby makes the following Scheme:

**1. Citation**

- 1.1 This scheme may be cited as the Gloucester City Council Members' Allowances Scheme and shall have effect on and from 1 April 2016 unless amended or a new scheme is adopted.

**2. Interpretation**

- 2.1 In this Scheme,

'the Council' means the Gloucester City Council;

'Councillor' means a Member of Gloucester City Council;

'co-opted member' means a member of a committee or sub-committee of the Council who is not a member of the authority.

'year' means a period beginning 1 April and ending on 31 March.

**3. Basic Allowance**

- 3.1 Subject to paragraphs 9 and 10, for each year a Basic Allowance shall be paid to each Councillor.
- 3.2 All incidental costs incurred by a Councillor in the performance of their duties are to be covered by the Basic Allowance unless they are specifically excluded under this Scheme. This includes, but is not limited to, travel expenses, office supplies, printer cartridges and any telephone costs incurred by a Councillor in the use of a private telephone.
- 3.3 The printing of business cards and headed paper are excluded from paragraph 3.2 above and will be provided on request.
- 3.4 The Council will offer and provide Councillors with the necessary support required to perform the role. The details of this provision are set out in a separate policy.

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<sup>1</sup> From 1<sup>st</sup> April 2018 a 2% increase is applied to the Basic Allowance in line with the Local Government Pay Award taking Basic Allowance from £5,711 to £5,825.

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#### **4. Special Responsibility Allowances**

- 4.1 For each year a Special Responsibility Allowance shall be payable to Councillors who hold the special responsibilities in relation to which they are specified in Schedule 1 to this Scheme.
- 4.2 Subject to paragraphs 10 and 15, the amount of each Special Responsibility Allowance shall be the amount specified against that special responsibility in Schedule 1 to this Scheme.
- 4.3 Where a Councillor holds more than one position of special responsibility, a Special Responsibility Allowance shall be paid, such as to be the higher or the highest of the relevant allowances.

#### **5. Attendance at meetings**

- 5.1 If a Councillor does not attend at least two-thirds of the scheduled meetings of the Council, or of the Cabinet, or of any sub-committee of which he/she is a Member, the Councillor concerned shall be required to pay back an appropriate percentage of his/her Basic Allowance of 25% of the Basic Allowance.
- 5.2 If a Member is absent from Council business for more than one month (other than on illness grounds) the Member concerned shall be invited to pay back a sum equivalent to the amount of Special Responsibility Allowances paid for any single period of absence which exceeds one month.
- 5.3 For periods of long term absences due to illness the Council may determine the position on a case by case basis.
- 5.4 Paragraph 5.1 does not apply to the Mayor or Sheriff/Deputy Mayor or Civic Office during the year in question.

#### **6. Attendance Allowances**

- 6.1 No attendance allowance shall be payable.

#### **7. Pensions**

- 7.1 Councillors are not eligible to join the Local Government Pension Scheme.

#### **8. Travel, Subsistence and Dependants' Carers Allowances**

- 8.1 Travel, Subsistence and Dependants' Carers Allowances shall be payable to Councillors in accordance with Schedule 2 to this Scheme.

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## **9. Renunciation**

- 9.1 A Councillor may, by notice in writing given to the Services Manager elect to forego any part of his/her entitlement under this Scheme.

## **10. Part Year Entitlements**

- 10.1 If the Term of Office or duties undertaken by a Councillor change through a financial year, or amendment of the Scheme changes the amount to which a Councillor is entitled, the allowance payable shall be on a pro-rata basis having regard to that the Term of Office, period of duty or relevant period to the month in the financial year in which they occur and the number of days in that month.

## **11. Withholding of allowances**

- 11.1 Where payment of any allowance is due or has already been made for any period during which the member concerned is
- (a) suspended or partially suspended from his/her responsibilities as a member of the authority in accordance with the Local Government Government Act 2000, or regulations made under that Act;
  - (b) ceases to be a member of the authority; or
  - (c) is in any other way not entitled to receive the allowance for that period, the authority may withhold the payment of the allowance for that period or, as the case may be, require that such amount already paid as relates to any such period be repaid to the authority.

## **12. Overpayment**

- 12.1 If a Councillor is paid any allowance under this scheme for any period and it subsequently becomes apparent that the Councillor is not entitled to that payment for that period for any reason, the authority may recover the overpayment from that Councillor.

## **13. Annual Adjustment of Allowances**

- 13.1 This scheme makes provision for an annual adjustment of allowances to the Local Government staff pay award.

## **14. Co-optees**

- 14.1 Co-opted members will not receive an allowance but will be entitled to any travel expenses incurred in attending meetings.

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**15. Membership of more than one authority**

15.1 Where a Councillor is also a member of another authority, the Council shall ensure that he/she does not receive allowances from both authorities in respect of the same duties.

**16. Claims and Payments**

16.1 Payments shall normally be made by bank transfer:

(a) in respect of Basic and Special Responsibility Allowances, in accordance with paragraph 15.2, in instalments of 1/12<sup>th</sup> of the amount specified in the Scheme on the 27<sup>th</sup> day of each month (or the last working day if it is not a working day) and for which Council members are required to submit a claim.

(b) in respect of Travel, Subsistence and Dependents' Car Allowances, on the 27<sup>th</sup> day of each month (or the last working day if it is not a working day) where the claim is received by the Council's Services Manager by not later than the 1<sup>st</sup> day of the following month.

16.2 Where a payment of 1/12<sup>th</sup> of the amount specified in the Scheme for a Basic or Special Responsibility Allowance would result in a Council member receiving more or less than the amount to which, by virtue of the Scheme, he or she is entitled, the payment shall be restricted to such amount so that no more or less is paid than the amount to which he or she is entitled.

16.3 Claims for Travel, Subsistence and Dependents' Car Allowances shall be submitted on the appropriate form within six months of the end of the month in which the claim is being made. The payment of any such claim after this deadline will be at the discretion of the Head of Paid Services.

## SCHEDULE 1 Special Responsibility Allowances

The following are specified as the special responsibilities in respect of which Special Responsibility Allowances are payable, and the amounts of the allowances.

<b>Responsibility</b>	<b>Multiplier of basic allowance</b>
Leader of the Council	3.5
Deputy Leader of the Council	2.25
<b>Cabinet Members</b>	
Communities and Neighbourhoods	1.75
Culture and Leisure	1.75
Environment	1.75
Housing and Planning	1.75
Performance and Resources	1.75
Regeneration and Economy	1.75
<b>Chairs of Committees</b>	
Planning Committee	0.8
Audit and Governance Committee	0.5
Licensing and Enforcement Committee	0.5
Overview and Scrutiny Committee	0.5
General Purposes Committee	0.3
<b>Deputy Chairs of Committees</b>	
Planning Committee	0.2
<b>Other positions of additional responsibility</b>	
Minority Group Leader	1
Minority Group Deputy Leader	0.25
Mayor	0.6
Sheriff and Deputy Mayor	0.2

### Notes:

- Where a Councillor holds more than one position of Special Responsibility Allowance shall be paid, such as to be higher or the highest of the relevant allowances.
- A maximum of two Minority Group Leaders and two Deputy Leaders are payable under the Scheme. An amendment is required in the event of there being more than two Minority Group Leaders.

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## **SCHEDULE 2**

### **Approved Duties**

The following are deemed to be approved duties for the purpose of subsistence and dependants' carers allowances. Travel and subsistence will only be paid where the duties necessitate travel beyond Council boundaries:

- (a) Attendance, by right of membership or express invitation, at Council, Cabinet, Committees, Sub-Committees, Working Groups, Task and Finish Groups.
- (b) Attendance, by right of membership or express invitation, at Committees, Sub-Committees, Working Groups, Panels and other bodies which the Council has appointed.
- (c) Attendance, by right of appointment, at meetings of appointed committees.
- (d) Attendance at Member training courses facilitated by the Council.
- (e) Attendance at a meeting of any association of authorities to which the Member is a member;
- (f) Attendance at meetings, Member training courses, conferences and events facilitated by external bodies, provided that authority has been notified in advance and in writing by the Head of Paid Service, or the relevant Political Group Leader, where appropriate.

Payments in respect of the above approved duties shall be made at the following rates:

#### **A. Travel and Subsistence Allowance**

Claims for travel and subsistence allowances must be submitted to the Democratic and Electoral Services Manager either electronically or in writing on Form EC5.

##### **(a) Travel Allowances**

Upon its implementation, Members are invited to make use of the scheme for identifying the most sustainable and cost effective means of travel. So, Members should inform the Democratic and Electoral Services Manager (or the Corporate Support Team in the case of Cabinet Members) of

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### ***Mileage allowances***

Motor mileage within the City boundaries is deemed to be covered by the City Mileage Allowance. Motor mileage for attendance at approved duties is payable where the duties necessitate travel beyond the City boundaries only.

Full addresses must be provided for all starting locations and will be checked against the quickest route identified by AA. Any discrepancies will be raised with the Councillor so that details can be recorded and reimbursed.

Mileage rates will be paid in accordance with the rates paid to staff or decrease in line with any changes agreed in the staff rates.

Use of private motor vehicle	50p per mile
Use of bicycle	£16 flat rate per month or 1

### ***Public Transport and Parking***

Bus travel	Actual fares reimbursed. Tickets or receipts must be provided.
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Rail travel	Train tickets should be arranged in advance with Democratic and Electoral Services in order to achieve the lowest possible fare. To take advantage of early booking discounts, in exceptional circumstances, a Councillor may purchase a rail ticket, the amount reimbursed will not exceed the amount of an ordinary fare or any available cheap fare. Any excess will not be reimbursed. Councillors purchasing rail tickets should provide their receipt or tickets for reimbursement.
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Taxi and Private Hire Vehicles	Fares will only be reimbursed if travel is necessary due to the urgency of the approved business or if a taxi is reasonably available. Receipts must be provided.
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Toll fees, ferry, garaging and parking charges	Actual fees or charges reimbursed. Receipts must be provided.
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### ***Accommodation***

If a Councillor is required to stay overnight for attendance at approved duties, they should contact Democratic and Electoral Services who, following consultation with the Councillor about their requirements, will make the necessary arrangements in order to ensure that the Council achieves value for money.

### ***(b) Subsistence Allowances***

Subsistence within the City boundaries is deemed to be covered by the City Subsistence Allowance. Subsistence for attendance at approved duties outside the City boundaries is payable where the duties necessitate travel beyond the City boundaries only.



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payable for duties outside Gloucester City Council boundaries. Subsistence must be supported by receipts. Where claims are based on the time of day meals are taken and time away from home

Breakfast	£6.29 (payable for absence from home before 11.00am)
Lunch	£8.72 (payable for absence from home which includes the hours of 12 noon-2.00pm)
Evening Meal	£15.10 (payable for absence from home ending after 6.00pm)

## **B. Dependents' Carers Allowance**

Councillors may claim reimbursement of care expenses when performing any of the approved duties defined in Schedule 2 to this Scheme for the provision of care for children and adult dependants.

When travelling away from home to an approved duty which requires an overnight stay, care expenses may be claimed in respect of the total cost of care for any period during which a dependent is cared for at no cost to the claimant.

In order to claim the reimbursement of care expenses, a Carers Allowance Expenses claim form must be completed and signed by both the Councillor and the carer before submission to the Democratic and Electoral Services Department.

### **(a) Childcare**

Eligible Councillors may claim for the reimbursement of the cost of childcare provision at the following rates:

Single child	up to a maximum hourly rate of 1.5 times the National Living Wage
Two or more children	up to a maximum of £9.00 per hour

Up to a total of one hour travelling time may be added to the above rates, where applicable, to enable the Councillor to travel to and from the childcare provider, provided that the child/children remain with the carer for the duration.

Childcare costs may be claimed for children aged 15 or under. For all claims, evidence of eligibility must be provided e.g. birth certificate. The child must normally live with the claimant as part of the family.

A carer can be any responsible mature person who does not live with the claimant as part of the family, but should not be a parent. The carer must have responsibility for making appropriate care arrangements.

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(b) Dependant Care

Eligible Councillors may claim for the reimbursement of actual costs for care provision, up to a maximum of £9.00.

Up to a total of one hour travelling time may be added, where applicable, to enable the Councillor to travel to and from the child/children remain with the carer for the duration.

Dependant care costs may be claimed for children with dependent adult relatives living in the Councillor's household where the Councillor is directly responsible.

A carer can be any responsible mature person who does not live with the claimant as part of the family. The claimant bears sole responsibility for appropriate care arrangements.

EC5

Expenses Claim Form



**Introduction**

This form is to be completed by the employee claiming mileage and expenses. Once this form has been completed, and has been approved by an authorised signatory, please send directly to PST. If this form is submitted incomplete or with errors, it will be returned at a risk of non payment. Please contact PST on 01452 396230 for any additional support on completion if required.

**Section A - Employee Details**

Name		Service	
Personnel Number		Month and Year	
Cost Centre (If not standard)			

### Section C - Expenses


Date	Details of journey	With VAT					Without VAT					
		Accom Allowance	Misc Expenses	Subsist	Phone/ Calls	Travelling Expenses	Accom Allowance	Misc Expenses	Subsist	Phone/ Calls	Travelling Expenses	Med Cert
<b>Total</b>												

### Section D - Approval

I CERTIFY that

I have necessarily incurred expenditure on travelling and subsistence for the purpose of enabling me to perform approved duties as a Member of Gloucester

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 Data Protection Act. The information you give us will be used for employee payments and related purposes. It may also be used for management information and statistics. We may need to provide some details to other organisations for legal reasons. All your information is treated with respect and in accordance with the Data Protection Act 1998. If you would like more information please contact HR.

For BSC use Only:	Input By:		Date:	
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## Part 6 – Members’ Scheme of Allowances

### GLOUCESTER CITY COUNCIL DEPENDANTS’ CARE EXPENSES CLAIM FORM

**DETAILS OF CLAIMANT**

Councillor.....  
 Address.....  
 ..... Postcode.....

**DETAILS OF DEPENDANT**

Name..... DOB.....  
 Relationship to Councillor making claim.....

**DETAILS OF CARE PROVIDED**

Date	Time	Approved Duty
.....	..... to .....	.....
.....	..... to .....	.....
.....	..... to .....	.....
.....	..... to .....	.....
.....	..... to .....	.....

Total number of hours care provided .....  
 Amount charged per hour £.....  
 Total amount paid to carer for provision of care £.....

**DECLARATION OF CARER**

I CONFIRM that I do not normally live at the same address as the person submitting this claim  
 I CERTIFY that I have received the amount stated above for providing the care on the dates and times specified above.

Name (Print)..... Telephone No.....  
 Address.....  
 ..... Postcode.....

Signed.....(Carer)      Date.....

**DETAILS OF CLAIM**

Total amount claimed      £.....

**DECLARATION OF CLAIMANT**

I CERTIFY that I have necessarily incurred expenditure on carer’s expenses for the purpose of enabling me to perform approved duties as a Member of Gloucester City Council.  
 I CONFIRM that I have actually paid the amount claimed and that the amount claimed is strictly in accordance with the Scheme determined by Gloucester City Council.

Signed.....(Councillor)      Date.....

## Part 6 – Members’ Scheme of Allowances

### Schedule 1 Representation on 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, 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 imbursement can be obtained from a particular Body that should be done instead.

	Organisation	Representatives 2018/19
1.	Aspire Sports and Cultural Trust	1. <del>Cllr. Hampson</del> 2.1. <del>Cllr. Teleman</del>
2.	Barton and Tredworth Development Ltd	1. <del>Vacant</del> 2.1. <del>_____</del>
3.	Charity of John Ward	1. <del>Cllr. Lugg</del> 2. <del>Mr B. Large</del> 3. <del>Mr T. Haines</del> 4. <del>Mr S. Ayland</del>
4.	Citizens’ Advice Bureau	1. <del>Cllr. Finnegan</del> 2.1. <del>Cllr. Hansdot</del>
5.	Environment and Ecology Forum	1. <del>Cllr. Bhaimia</del> 2. <del>Cllr. Brazil</del> 3. <del>Cllr. D.Brown</del> 4. <del>Cllr. Cook</del> 5. <del>Cllr. Taylor</del> 1. <del>_____</del>
6.	Free Hospital Fund for Children	1. <del>Dr G. Cole</del> 2. <del>Mrs D Fenton</del> 3. <del>Mr R. Stanley</del> 4. <del>Ms H. Sutcliffe</del> 5. <del>Ms R. Woodliffe</del>

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## Part 6 – Members’ Scheme of Allowances

	Organisation	Representatives 2018/19
7.	Gloucester Docks Estate Company Ltd	1. <del>Cllr. Cook</del>
8.	Gloucestershire Playing Fields Association	1. <del>Cllr. Neakes</del>
9.	Gloslinks	<del>1. Cllr. Bhaimia 2. Cllr. Gravelle 3. Cllr. Tracey</del>
10.	Gloucester Charities Trust	<del>1. Cllr. Lugg 2. Cllr. Melvin 3. Cllr. Tracey 4. Mr S Ayland 5. Mr G Howell 6. Mr T Haines 7. Mr M White</del>
11.	Gloucester City Homes Board (3 year period)	<del>1. Mr J Beeley 2.1. Mr D. Johnson</del>
12.	Gloucester Culture Board	1. <del>Cllr. Neakes</del>
13.	Gloucester Historic Buildings Limited	<del>1. Cllr. Dee 2. Cllr. Hampson 3. Cllr. Teleman 4. Mr G. Heath 1. ...</del>
14.	Gloucester Law Centre Management Committee	<del>1. Cllr. Lugg 2.1. Cllr. Williams</del>
15.	Gloucester Relief in Sickness Fund	1. <del>Cllr. Bhaimia</del>
16.	Gloucester United Schools Charity	1. <del>Cllr. Pearsall</del>
17.	Gloucestershire Airport Ltd - 1 Director	1. <del>Cllr. Melvin</del>
18.	Gloucestershire Airport Consultative Committee	1. <del>Vacant</del>

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## Part 6 – Members’ Scheme of Allowances

Organisation		Representatives 2018/19
19.	Gloucestershire Economic Growth Overview and Scrutiny Committee	<del>1. Cllr. Patel</del> Substitute 1. <del>Cllr. Stephens</del>
20.	Gloucestershire Health and Care Overview and Scrutiny Committee	<del>1. Cllr. Finnegan</del> Substitute 1. <del>Cllr. Hampson</del>
21.	Llanthony Secunda Priory Trust	1. <del>Cllr. Tracey</del>
22.	Local Government Association General Assembly	1. <del>Cllr. James</del>
23.	Lower Severn Drainage Board	1. <del>Cllr. Morgan</del>
24.	Marketing Gloucester Limited	1. <del>Cllr. James</del>
25.	National Parking Adjudication Service	1. <del>Cllr. James</del>
26.	South West Councils	1. <del>Cllr. James</del>
27.	South West Provincial Council	1. <del>Cllr. James</del>
28.	St Ann Society of Gloucester	1. <del>Cllr. Tracey</del>

## Part 7 – Proper Officers and Scheme of Sub Delegation

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	<b>Page</b>
<b>Proper Officers</b> .....	2
<b>Scheme of Sub Delegation</b> .....	6
<b>Management Structure</b> .....	15

## Part 7 – Proper Officers and Scheme of Sub Delegation

### Proper Officers

<b>HEAD OF PAID SERVICE</b>		
<b>Section</b>	<b>Legislation</b>	<b>Function</b>
Section 270 (3)	Local Government Act 1972	Appointment of Proper Officers.
Section 4	Local Government and Housing Act 1989	Duty to report to Council, where the Officer considers it appropriate, on the manner in which the discharge of the Council's functions is co-ordinated, the number and grades of staff required for the discharge of the Council's functions, the organisation of the Council's staff and the appointment and proper management of the Council's staff.
176	Local Government Act 1972	Officer who may defray expenses of any Members making official and courtesy visits, receptions and entertainment of distinguished persons visiting the Borough.
	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 by the Head of Paid Service in consultation with the relevant Corporate Director)
Section 191	Local Government Act 1972	Appointing officer -Ordnance Survey
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
Section 8	Representation of The People Act 1983	The Registration Officer for the purpose of the registration of electors.
Section 28	Representation of The People Act 1983	Discharge of Returning Officers functions.
Section 35	Representation of The People Act 1983	The Returning Officer at an election of Councillors.
Section 83 (1)	Local Government Act 1972	The officer to whom a person elected to the office of Councillor shall deliver a declaration of acceptance of office on a form prescribed by rules made under Section 42 of the Act.
Section 83 (3)(b)	Local Government Act 1972	The officer before whom a declaration of acceptance of office of Chair of Council or Deputy Chair of Council may be made.
Section 84	Local Government Act 1972	The officer to whom written notice of resignation of elected office shall be delivered.
Section 86	Local Government Act 1972	The officer to declare any vacancy in any office under the Section.
Section 88	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.

## Part 7 – Proper Officers and Scheme of Sub Delegation

Section 89	Local Government Act 1972	The officer to whom notice in writing of a casual vacancy occurring in the office of Councillor may be given by two local government electors for the Borough.
Sections 3 and 4	The Local Authorities (Referendums) (Petitions and Directions) England Regulations 2000	The Officer responsible for the publication of the verification number and checking the validity of any subsequent petition on whether the Authority should operate Executive arrangements which involve an elected Mayor.
Section 100 (4)	Local Government and Public Involvement in Health Act 2007  Sustainable Communities Act 2007	On behalf of Council, to undertake Community Governance Reviews in accordance with the 2007 Act and to receive petitions in respect of Community Governance Reviews.  To consult, make and implement reviews in accordance with legislation and guidance.
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 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.
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 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 138	Local Government Act 1972 (as amended by Local Government and Housing Act 1989)	Authority to exercise powers of the Council in cases of emergency.
<b>Corporate Director (Service Transformation)</b>		
<b>Section</b>	<b>Legislation</b>	<b>Function</b>
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.

## Part 7 – Proper Officers and Scheme of Sub Delegation

	Civil Evidence Act 1995	To certify Council records for the purposes of admitting the document in evidence in civil proceedings.
	Local Government (Contracts) Act 1997 and Regulations	Certification of relevant powers to enter into contracts
Section 236 (10)	Local Government Act 1972	The officer responsible for forwarding Council byelaws to the County Council.
Section 238	Local Government Act 1972	The officer to certify printed copies of byelaws.
	Food Safety Act 1990	All purposes relating to and including authority to authorise such other officer(s) as the Head of Place and Head of Communities 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
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 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.

## Part 7 – Proper Officers and Scheme of Sub Delegation

	Local Government Act 2000	The officer responsible for ensuring a proper record is made of Executive decisions.
	Local Government Act 2000	To make payments of relevant allowances in accordance with the Council's Members' allowances scheme.
	Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012	The Proper Officer in relation to the 2012 Regulations.
	Local Government (Contracts) Act 1997 and Regulations	Certification of relevant powers to enter into contracts
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.
Schedule 14 para. 25(7)	Local Government Act 1925	Certification of resolution under Public Health Acts 1875 – 1925.
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.
	Local Government Act 2000	To ensure that copies of the constitution are available for inspection.
<b>Head of Policy &amp; Resources</b>		
<b>Section</b>	<b>Legislation</b>	<b>Function</b>
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.
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.

## Part 7 – Proper Officers and Scheme of Sub Delegation

Regulation 6	Accounts and Audit Regulations 2011	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 Officer 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
	The Local Authority (Capital Finance and Accounting) (England) Regulations 2003	
	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.
<b>Corporate Director (Partnerships)</b>		
<b>Section</b>	<b>Legislation</b>	<b>Function</b>
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.
	Local Government (Contracts) Act 1997 and Regulations	Certification of relevant powers to enter into contracts
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
	The Building (Local Authority Charges) Regulations 2010	Appointing officer
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.

## Part 7 – Proper Officers and Scheme of Sub Delegation

<b>Monitoring Officer</b>		
<b>Section</b>	<b>Legislation</b>	<b>Function</b>
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 29	Localism Act 2011	To establish and maintain the Members' Register of Interests and ensure it is available for public inspection.



## Part 7 – Proper Officers and Scheme of Sub Delegation

### Scheme of Sub Delegation

Part 3 of the Council's constitution sets out powers delegated to the Managing Director and Corporate Directors at Gloucester City Council.

This scheme sets out details of the sub- delegations to officers of the council by the Managing and Corporate Directors.

#### Head of Policy and Resources

1. To have operational control of the Council's policy and resources functions, including its finances and to act as financial adviser to the Council, Cabinet and committees.
2. Subject to paragraphs 3 and 4 below, to undertake all of the Council's functions in connection with:
  - Accountancy (including banking)
  - Investments, borrowing and financing
  - Insurances
  - Housing and Council Tax Benefits
  - Council Tax, NNDR and other Revenues
  - Internal Audit
  - Debtors and Creditors
  - The Collection Fund
  - Investigation of fraud and financial impropriety
  - The control of funds and reserves
  - Information risk (as the Council's Senior Information Risk Officer)
  - Data Protection Officer
  - Senior Information Risk Officer (SIRO)
  - ICT
  - Procurement
  - Capital Projects
  - Non-housing property
  - Facilities and property asset management
  - Property maintenance
  - The review of listings for Assets of Community Value
  - [Cemeteries and Crematoriums](#)
3. To undertake the following non- executive functions:

Function	Condition
Approve revenue budget virements between service areas/budget heads not exceeding £25,000	In consultation with appropriate Corporate Director. If exceeding £10,000, Cabinet Member to be informed.
Approve ex gratia and maladministration compensation payments up to £5,000	In consultation with the Council Solicitor
Set fees and charges and increase in line with inflation	Cabinet Member or Appropriate Committee Chairman to be informed
Authorise legal proceedings	In consultation with the Council Solicitor

## Part 7 – Proper Officers and Scheme of Sub Delegation

4. To undertake the following executive functions:

- To write off irrecoverable debts of less than £10,000 and to make recommendations to the Cabinet Member for Performance and Resources in respect of debts in excess of £10,000, but below £100,000. Irrecoverable debts greater than £100,000 will be the subject of a report to Cabinet.
- To determine claims for compensation for listed land (assets of community value) in consultation with the Cabinet Member for Performance and Resources.
- Respond to consultations within the remit of the post other than from Government, local authority associations and similar bodies which have policy or cross service issues.
- Implement the Council's Risk Management Policy & Strategy.
- Agree increase in fees and charges in line with inflation.
- Monitor the performance of contracts and service level agreements in respect of all non-internally provided services within the remit of the post.
- Make bid for funding with resource implications not exceeding £100,000.
- ~~Engage consultant or locum not exceeding £50,000 pa.~~
- Accept tenders and quotations within budget and not exceeding £~~100~~250,000.
- Approve waiver to Contract Rules where the value does not exceed £~~250~~400,000.
- To impose sanctions in Benefit Fraud cases.
- To represent the Council in the Magistrates' Court and in the County Court and, in respect of Housing and Council Tax Benefit Appeals, to represent the Council at Hearings of the Appeals Service.
- To grant discretionary housing payments.
- To determine appeals in respect of applications for Discretionary Rate Relief made pursuant to Section 47 of the Local Government Finance Act 1988.
- To determine appeals in respect of applications for remittance in full or part on the grounds of hardship, pursuant to Section 49 of the Local Government Finance Act 1988.
- To determine appeals in respect of locally defined Council Tax discounts in accordance with S13A of the Local Government Finance Act 1992.
- To sign and serve completion notices under Schedule 4A of the Local Government Finance Act 1988 as amended for Non Domestic Rates and under Section 17 of the Local Government Finance Act 1992 for Council Tax.
- To determine applications received under the provisions of Section 44A of Schedule 5 of the Local Government Finance Act 1988 (Non Domestic rates – partly occupied Properties).
- Dispose of non-land assets with a value not exceeding £5,000.
- Acquire land or property following CPO
- Acquire land (other than following a CPO) where the value does not exceed £50,000;
- Dispose of or exchange land with a value not exceeding £50,000 including at an undervalue (and including public open space disposals where there have been no objections to the statutory notice of disposal)
- Give public notice of a proposal to dispose of or change the use of public open space
- Determination of rent reviews:
  - (a) Where the annual rental does not exceed £250,000; or
  - (b) Where the annual rental exceeds £250,000, where a calculation mechanism is set down in the lease and has no element of negotiation
- Grant consents and licences under any leases granted by the Council.
- Apply for consents and licences under any leases under which property is held by the Council.
- Authorise rent subsidy (not exceeding £50,000) to third party on Council owned land.
- All other matters within the day-to-day management of the Council's property portfolio where the value of the action taken does not exceed £50,000.

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## Part 7 – Proper Officers and Scheme of Sub Delegation

- Take all steps reasonably necessary for the effective and efficient delivery of services for which they are responsible.

### Definitions:

- "Acquire" includes the acquisition (including the acceptance of a surrender where appropriate) of a freehold or leasehold interest, rights, benefits or privileges, the dedication under statutory powers or obligations and includes the variation of any lease where the Council is a tenant under the lease.
- "Appropriation (appropriate)" is the formal transfer of property within the Authority from one statutory function to another.
- "Dispose" includes the transfer of a freehold interest, dedication under statutory powers or obligations, easements (leasehold or freehold) and the grant, release, assignment or giving of a surrender (as appropriate) of any lease, covenants, benefits rights or privileges and includes the variation of any lease where the Council is a landlord under the lease.
- "Land" includes all buildings structures, rights and interests associated with land.
- "Lease" includes any tenancy, licence, consent to occupy.
- "Subsidy", where there is reference to rent subsidy, is to the value of the identifiable rent, service charges, business rates and other outgoings for the identifiable period of commitment "Value", where there is reference to a lease/tenancy/licence/surrender, is to the identifiable rent, service charges, business rates and other outgoings for the identifiable period of commitment.

### Head of Place

1. To have operational control of the Council's :
  - regeneration and economic development functions and to act as adviser to the Council, Cabinet and committees
  - Town and Country Planning and development control as specified in Section A of Schedule 1 of the Local Authorities (Responsibilities for Functions) (England) Regulations 2000 as from time to time in force including enforcement and all powers under planning legislation to obtain information as to interests and particulars of persons interested in land to Town and Country Planning and development
2. Subject to paragraphs 3 and 4 below, to undertake all of the Council's functions in connection with:
  - The Local Development Framework
  - Heritage and Conservation
  - Archaeology
  - Monuments
  - Development Control
  - Building Control
  - Planning Policy
  - Capital projects
  - Off Street parking
  - Economic Regeneration (including the provision of loans and grants for economic regeneration purposes, after consultation with the relevant Cabinet Member)
  - City Centre management
  - Drainage
  - Flood Protection
  - Pollution and Noise Control
  - Grounds Maintenance and Street scene
  - Climate Change
  - Nature and Biodiversity
  - Landscape and Public realm
  - Environmental enhancement projects

## Part 7 – Proper Officers and Scheme of Sub Delegation

- Clean neighbourhoods
- Highways, sewers and sewage
- Country parks, playing fields, parks allotments and open spaces
- Dog Control
- Public and environmental Health
- Food Safety and Hygiene
- Community Safety
- Anti-Social Behaviour
- Licensing
- Pest Control
- Shops and Sunday trading
- Housing Strategy
- Public Rights of Way

### 3. To undertake the following non- executive functions:

Determine applications for: (g) full planning permission; (h) outline planning permission; (i) approval of reserved matters; (j) listed building consent; (k) conservation area consent; (l) advertisement control consent	Except as specifically allocated to Planning Committee under Part 3C Table 2
Determine planning applications relating to trees including (a) trees covered by Tree Preservation Orders: and (b) trees within Conservation Areas.	Except as specifically allocated to Planning Committee under Part 3C Table 2
Other actions and decisions (including enforcement, entry on to land and planning agreements) as local planning authority under the Town & Country Planning Act 1990, Planning (Listed Building & Conservation Area) Act 1990 and all planning related legislation.	Except as specifically allocated to or by Council
Authorise the stopping up or diversion of a highway, footpath or bridleway or extinguish public rights of way over land held for planning purposes.	
Extinguish public right of way over land acquired for clearance.	
Undertake functions relating to high hedges and protection of important hedgerows.	
Highway authority functions (as delegated to the Council by the County Council)	Except as specifically allocated to Licensing Committee under Part 3C Table 2

## Part 7 – Proper Officers and Scheme of Sub Delegation

Determine jointly with the Council Solicitor the wording of, and completion of agreements under Section 106 of the Town and Country Planning Act 1990	Except as specifically allocated to Planning Committee under Part 3C Table 2
Determine any application for the grant, renewal, variation or transfer of a licence, consent, permit or permission	Except as specifically allocated to Licensing and Enforcement Committee or Sub-Committee under Part 3C Table 2
Suspend or continue the suspension of a hackney carriage or private hire driver, vehicle or operator's licence	Where public safety is at risk
Revoke or withdraw a licence, consent, permit or permission	Except as specifically allocated to Licensing Committee or Sub-Committee under Part 3C Table 2
Other actions and decisions (including enforcement, entry on to land and waiving of fees) as licensing authority under the Licensing Act 2003, Gambling Act 2005 and all other licensing legislation	Except as specifically allocated to Council, Licensing Committee or Sub-Committee under Part 3C Tables 1 and 2
Discharge all functions under food and food safety legislation which cannot be exercised as Executive Functions	
Authorise legal proceedings	In consultation with the Council Solicitor

4. To undertake the following executive functions:
- Respond to consultations within the remit of the post other than from Government, local authority associations and similar bodies which have policy or cross service issues.
  - Make bid for funding with resource implications not exceeding £100,000.
  - ~~Engage consultant or locum not exceeding £50,000 pa.~~
  - Accept tenders and quotations within budget and not exceeding £100,250,000.
  - Take all steps reasonably necessary for the effective and efficient delivery of services for which they are responsible.

### Head of Communities

1. To have operational control of the Council's functions relating to communities
2. Subject to paragraphs 3 and 4 below, to undertake all of the Council's functions in connection with:
  - Customer Services
  - Housing matters (including and homelessness)
  - Clean neighbourhoods
  - Highways, sewers and sewage
  - Dog control
  - Private Sector Housing

## Part 7 – Proper Officers and Scheme of Sub Delegation

- Disabled Facilities Grants
- Public and environmental Health
- Food Safety and Hygiene
- Community Safety
- Anti-Social Behaviour
- Community Development
- Drainage
- Flood Protection
- Pollution and Noise Control
- Relationship with GCH
- Contaminated Land
- Licensing
- Pest Control
- Health and Safety at Work
- Caravan and Camping
- Shops and Sunday Trading
- Emergency planning and Business Continuity
- Empty Homes
- Housing Strategy

### 3. To undertake the following non- executive functions:

Undertake functions relating to high hedges and protection of important hedgerows.	
Determine any application for the grant, renewal, variation or transfer of a licence, consent, permit or permission	Except as specifically allocated to Licensing and Enforcement Committee or Sub-Committee under Part 3C Table 2
Suspend or continue the suspension of a hackney carriage or private hire driver, vehicle or operator's licence	Where public safety is at risk
Revoke or withdraw a licence, consent, permit or permission	Except as specifically allocated to Licensing Committee or Sub-Committee under Part 3C Table 2
Other actions and decisions (including enforcement, entry on to land and waiving of fees) as licensing authority under the Licensing Act 2003, Gambling Act 2005 and all other licensing legislation	Except as specifically allocated to Council, Licensing Committee or Sub-Committee under Part 3C Tables 1 and 2
Discharge all functions under the Health & Safety at Work etc. Act 1974 and other health and safety related legislation (otherwise than in the Council's capacity as employer)	
Discharge all functions under food and food safety legislation which cannot be exercised as Executive Functions	
Authorise legal proceedings	In consultation with the Council Solicitor

## Part 7 – Proper Officers and Scheme of Sub Delegation

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4. To undertake the following executive functions:
- Respond to consultations within the remit of the post other than from Government, local authority associations and similar bodies which have policy or cross service issues.
  - Make bid for funding with resource implications not exceeding £100,000.
  - ~~Engage consultant or locum not exceeding £50,000 pa.~~
  - Accept tenders and quotations within budget and not exceeding £~~400~~250,000.
  - Take all steps reasonably necessary for the effective and efficient delivery of services for which they are responsible.

### Head of Cultural and Trading Services

1. To have operational control of the Council's functions relating to cultural and trading services.
2. Subject to paragraphs 3 and 4 below, to undertake all of the Council's functions in connection with:
  - (i) Council's Cultural Strategy
  - (ii) ~~Cemeteries and Crematoriums~~
  - (iii) ~~Markets/Visitor Experience~~
  - (iv) ~~Shopmobility~~

3. To undertake the following non- executive functions:

Authorise legal proceedings	In consultation with the Council Solicitor
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4. To undertake the following executive functions:
- Respond to consultations within the remit of the post other than from Government, local authority associations and similar bodies which have policy or cross service issues.
  - Make bid for funding with resource implications (within budget) not exceeding £50,000.
  - ~~Engage consultant or locum within budget and not exceeding £50,000 pa.~~
  - Accept tenders and quotations within budget and not exceeding £250,000.
  - Take all steps reasonably necessary for the effective and efficient delivery of services for which they are responsible.

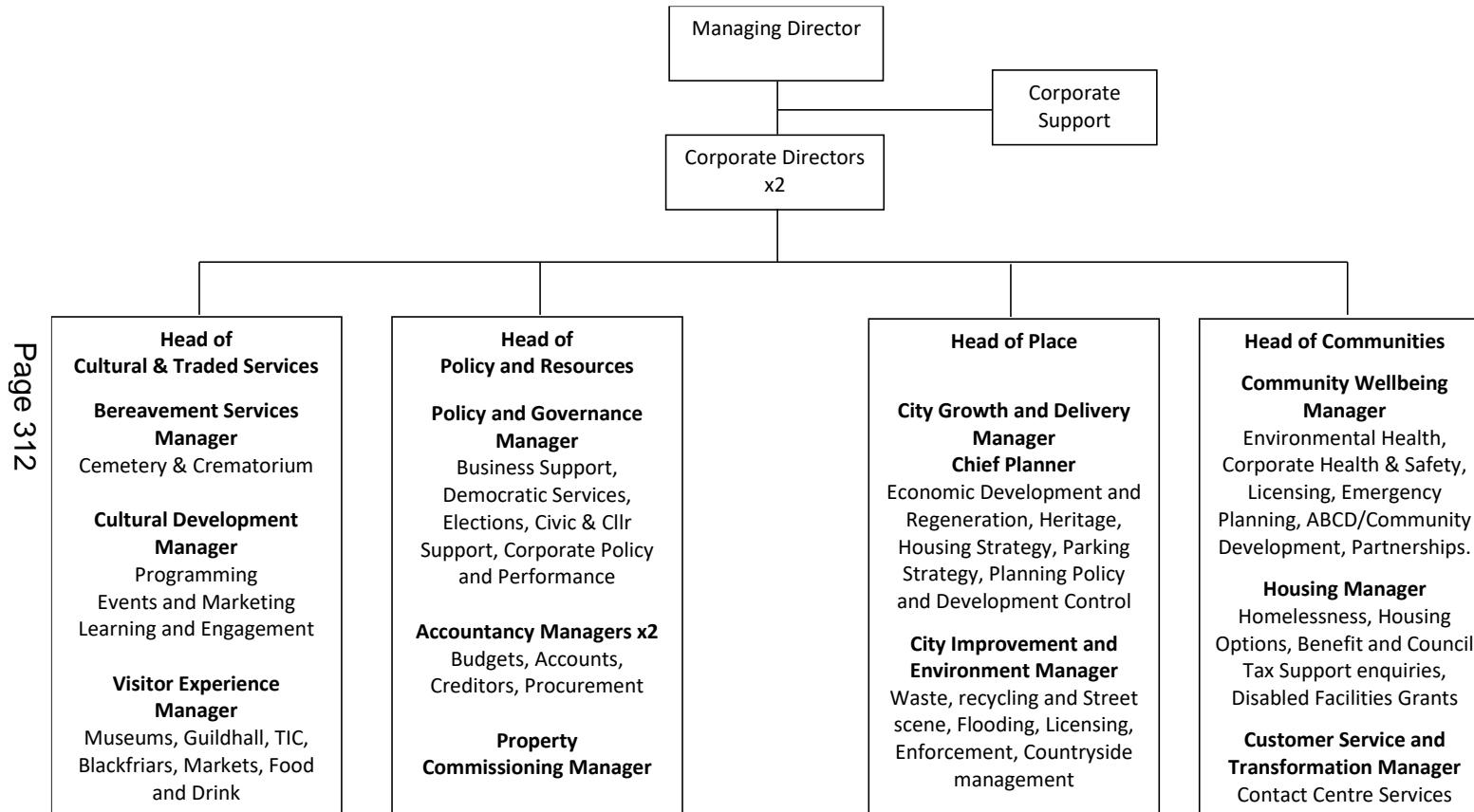
.....  
Managing Director

.....  
Corporate Director  
(Service Transformation)

.....  
Corporate Director  
(Partnerships)

## Part 7 – Proper Officers and Scheme of Sub Delegation

### Management Structure



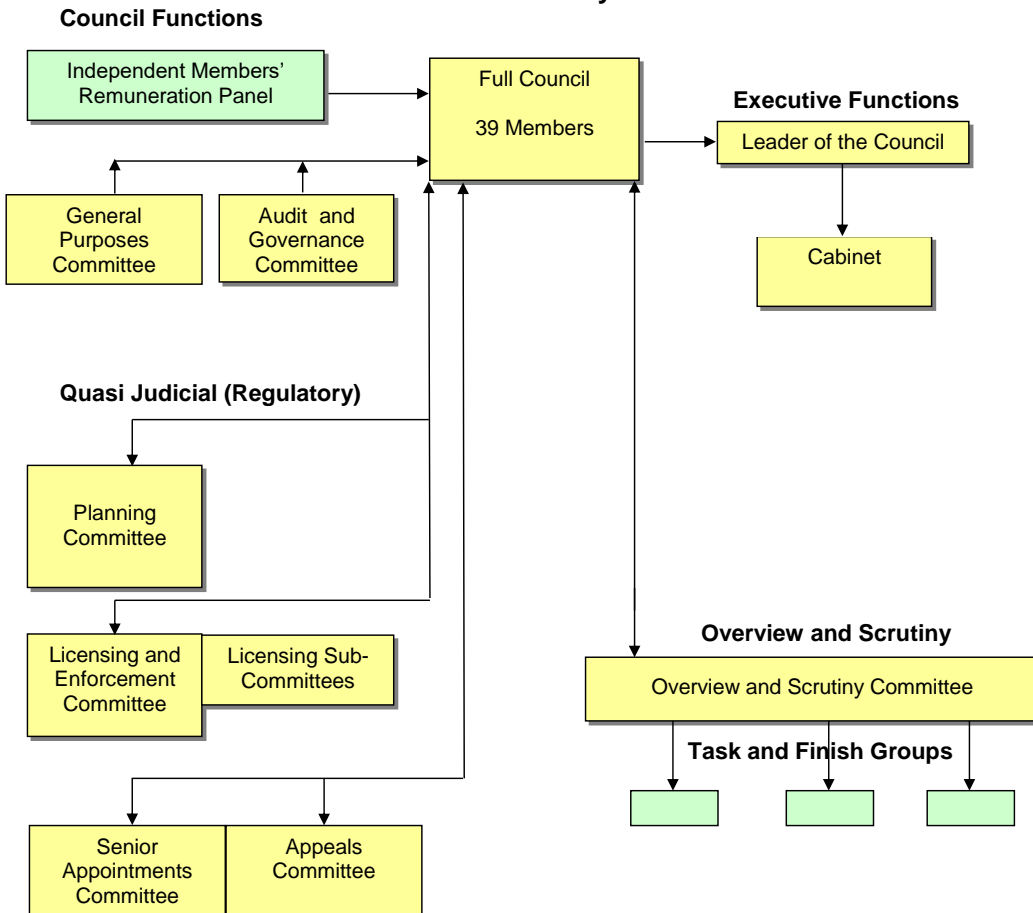


## Appendices

	<b>Page</b>
<b>Diagram of Committees</b> .....	2
<b>Size of Committees</b> .....	3
<b>Joint Committees and Working Groups</b> .....	4
<b>Glossary of Terms</b> .....	14
<b>Abbreviations and Acronyms</b> .....	20
<b>City of Gloucester Ward Boundaries</b> .....	22

## Appendices

### Gloucester City Council



## Appendices

### SIZE OF COMMITTEES

Committee	No. of Members	Quorum	Appointment By	Politically Balanced	No. of Meetings per Year
Council	39	10		Yes	7
Cabinet	6	2 (inc. either Leader or Deputy Leader)	Council appoints Leader and notes Cabinet Members	Not applicable	11
Overview and Scrutiny Committee	15	4	Council	Yes	12
Planning Committee	13	4	Council	Yes	12
Licensing and Enforcement Committee	13	4	Council	Yes	4
Licensing Sub-Committee	3	3	Head of Paid Service from membership of Licensing and Enforcement Committee	No	Ad hoc
Licensing and Enforcement Sub-Committee	7	3	Head of Paid Service from membership of Licensing and Enforcement Committee	No	Ad hoc
Audit and Governance Committee	7	3	Council	Yes	5
General Purposes Committee	7	3	Council	Yes	4
Senior Appointments Committee	5	2	Council	Yes	Ad hoc
Appeals Committee	5	2	Council	Yes	Ad hoc

## Appendices

### JOINT COMMITTEES AND WORKING GROUPS

<b>Safer Gloucester Partnership (Gloucester Community Safety Partnership)</b>	
<b>Membership</b>	7 Responsible Authorities (Quorum 3) [Proportional to the political composition of the Council].
<b>Comprising</b>	The current membership of the Partnership Leadership Group is made up of one representative from each of Gloucester City Council, Gloucestershire County Council, Gloucestershire Constabulary, Gloucestershire Primary Care Trust, Gloucestershire Fire and Rescue Service, Gloucestershire Police Authority and Gloucestershire Probation Trust (the "Responsible Authorities"). This group may be expanded in the future by mutual agreement. Responsible Authorities can invite representatives from organizations or bodies which can assist in the delivery of the Partnership's goals to become Responsible Authorities ("Invited Members") and the Partnership Leadership Group can co-opt members.
<b>Requirement</b>	A representative must be present from each of the local authorities and Gloucestershire Constabulary for meetings to be quorate.
<b>Role</b>	<p>The Safer Gloucester Partnership has been created to meet the requirements of the Crime and Disorder Act 1998 (the 1998 Act) as amended by the Police Reform Act 2002 and to serve the City of Gloucester.</p> <p>(i) <b>Responsible Authorities</b> Section 5 of the 1998 Act requires Gloucestershire County Council, Gloucester City Council and Gloucestershire Constabulary to formulate and implement a strategy for the reduction of crime and disorder in the area. Other organisations such as the police authority, probation and health authority have a legal responsibility to help them.</p> <p>(ii) <b>Main Objective</b> The primary objective of the Statutory Partnership is to reduce the levels of crime and fear of crime in Gloucester. The Statutory Partnership must:</p> <ul style="list-style-type: none"> <li>(a) Carry out an audit to review the levels and patterns of crime and disorder;</li> <li>(b) Consult the community on the findings of the audit;</li> <li>(c) Publish the audit findings and the results of the consultation;</li> <li>(d) Prepare a plan for tackling crime and disorder. This must be based on the audit findings;</li> <li>(e) Monitor progress in meeting the targets set in the strategy and prepare reports; and</li> <li>(f) From time to time review and revise the strategy to meet changing priorities.</li> </ul> <p>The Statutory Partnership intends to:</p> <ul style="list-style-type: none"> <li>(a) Encourage other relevant organisations to participate in achieving the aims and objectives set out in the three year strategy.</li> <li>(b) Promote good practice amongst local statutory and non-statutory organisations to reduce the levels of crime and disorder.</li> </ul> <p>(i) <b>Executive Support</b> The Partnership will be supported by staff from the partner organisations. Senior staff will form a Leadership Group to lead this. Specialist sub-groups will also be established to focus on various aspects of the strategy. Separate terms of reference have been prepared for these sub-groups.</p> <p>(ii) <b>Powers</b> The Statutory Partnership will:</p>

## Appendices

	<p>(a) Bid for sufficient resources, either financial or 'in kind' to deliver the plan;</p> <p>(b) Allocate available resources to meet the priority objectives set out in the plan;</p> <p>(c) Publish material to promote and advance the objects and work of the Statutory Partnership;</p> <p>(d) Consult with local communities and commission surveys in the city about crime and disorder.</p> <p>(iii) <b>Votes of Members</b> To reach decisions other than general consensus at meetings of the Leadership Group, each Responsible Authority in the Partnership is entitled to only one vote. Where there is an equal split in voting, the Chair of the Leadership Group will have the casting vote.</p> <p>(iv) <b>Appointments of Chair and Vice Chair</b> Chair and Vice Chair will both be appointed from the Leadership Group by way of a simple majority vote.</p> <p>(v) <b>Venue</b> The Leadership Group will decide on an annual cycle the management and venues of its meetings. Meetings are currently held bi monthly at the offices of Gloucester City Council.</p>
<b>Gloucestershire Police and Crime Panel</b>	
<b>Membership</b>	12 (minimum of 10 elected members and 2 independent members) [To meet the balanced appointment objective set out in the Police Reform and Social Responsibility Act 2011].
<b>Quorum</b>	3 or one third of membership
<b>Comprising</b>	The membership of the Panel comprises a minimum of 6 District Councillors (one councillor from each district in Gloucestershire), 4 County Councillors and 2 independent members. The Panel may co-opt additional elected members.
<b>Frequency of Meetings</b>	6 per year (Note: the frequency may be subject to change depending on formal agreement)
The functions of the Panel are to be exercised with a view to supporting the effective exercise of the functions of the Police and Crime Commissioner. The Panel is under a duty to support, as well as challenge, the Commissioner.	
<b>Role</b>	<p>(i) To review the draft police and crime plan, or draft variation, given to the Panel by the Police and Crime Commissioner. The Panel must make a report or recommendations to the commissioner.</p> <p>(iii) To review the annual report and make a report or recommendations to the commissioner. The Panel is to ask the commissioner questions, as appropriate, on the annual report.</p> <p>(iv) To hold a confirmation hearing and review, make a report, and recommendation of proposed senior appointments made by the Police and Crime Commissioner, this includes:  <p>(a) The Commissioner's chief executive                      (b) The Commissioner's chief finance officer                      (c) A Deputy Police and Crime Commissioner</p>                     The Panel has the power to veto the appointment of the Chief Constable.</p> <p>(v) To review and make a report and recommendation (as necessary) on the proposed precept.                      The Panel has the power to veto the proposed precept.</p> <p>(vi) To review or scrutinise decisions made, or other action taken, by the Police and Crime Commissioner in connection with the discharge of the commissioner's functions.</p> <p>(vii) To fulfill functions in relation to complaints about conduct matters, in accordance with the responsibilities accorded to the Panel by the Police Reform and Social Responsibility Act 2011.</p>

## Appendices

	(viii) To appoint an Acting Police and Crime Commissioner if necessary.
<b>Gloucestershire Economic Growth Joint Committee</b>	
<b>Membership</b>	9 (Quorum 4) [political proportionality rules do not apply]
<b>Quorum</b>	4 Members. No business shall be transacted unless quorum is reached. If quorum is not reached within 30 minutes of the start of the meeting, (or if quorum ceases to be present during a meeting), the meeting shall be adjourned to the same time and venue within five working days of the meeting or to a date determined by the Chair.
<b>Comprising</b>	One member from each local authority (Cheltenham Borough Council, Cotswold District Council, Gloucester City Council, Gloucestershire County Council, Forest of Dean District Council, Stroud District Council and Tewkesbury Borough Council). Such members to be the Leader (or other appointed executive member where executive arrangements are in place) from each local authority (voting), the Chair and one other Board member of GFirst LEP (non-voting). Each Committee member shall remain in office until removed or replaced by his or her appointing local authority, or in the case of an executive member, until he or she ceases to be a member of the Executive of the appointing local authority.
<b>Frequency of Meetings</b>	4 meetings per annum and at other such times as required. A meeting of the Committee must be convened by the Chair within twenty eight days of the receipt of a requisition of any two voting members of the Committee addressed to the Secretary/Clerk to the Committee. All requisitions shall be in writing and no business other than that specified in the requisition shall be transacted at such a meeting.
<b>Role</b>	Each of the Councils empowers the Joint Committee to discharge on their behalf the power to do anything it considers likely to achieve the promotion or improvement of the economic well being of the area of Gloucestershire together with such additional functions as the respective constituent councils may determine from time to time. (ii) To facilitate and enable collaboration between the local authorities on economic development and associated activities. (iii) In conjunction with the GFirst LEP Board, to formulate and agree the GFirst LEP Plan (and Implementation Plans), the GFirst EU Strategic Infrastructure Fund Strategy, the Gloucestershire Strategic Economic Plan and other plans and strategies related to economic growth, and to work jointly to ensure their delivery. (iv) To lobby and carry out other activities that help achieve the promotion or improvement of the economic well being of the area of Gloucestershire. (v) To promote the vision contained in the Gloucestershire Strategic Economic Plan and to make recommendations to the GFirst LEP Board on any matter relating to the economic well being of Gloucestershire. (vi) To oversee and review the GFirst LEP Board's activities and consider any further measures necessary to strengthen the relationship with the GFirst LEP Board. (vii) To seek the allocation of resources to achieve the promotion or improvement of the economic well being of the area of Gloucestershire. (viii) To ensure a co-ordinated approach to and liaise with the:- <ul style="list-style-type: none"> <li>• Local Transport Board</li> <li>• County Strategic Planning and Infrastructure Group</li> <li>• LEP Investment Panel</li> <li>• EU Structural and Infrastructure Fund Board</li> <li>• Business Rates Pool Arrangements</li> </ul> and other relevant Groups/Boards as the respective constituent Councils may determine from time to time. (ix) To provide political and democratic accountability by:

## Appendices

	<ul style="list-style-type: none"> <li>• Monitoring the delivery of each priority, plan, project or programme included in the SEP and by ensuring that action is taken to review and prepare revised action plans as necessary</li> <li>• Monitoring the annual SEP budget</li> <li>• Reviewing the Annual SEP Report of GFirst LEP</li> <li>• Advising and making recommendations to the Accountable Body.</li> </ul>
<b>Host Authority</b>	The Committee will be hosted under local government arrangements by Gloucestershire County Council. The Host Authority will provide Secretary/Clerk, Section 151 and Monitoring Officer roles of the Committee.
<b>Chair</b>	The Chair of the meeting will be elected at the first meeting and then each Annual Meeting of the Committee and if the Chair is not present at any meeting within 10 minutes of the start of the meeting, then those present will elect a Chair to act for that meeting. Only a voting member is entitled to be elected as Chair or Vice-Chair of the Committee.
<b>Substitutes</b>	Each local authority shall appoint a substitute (being an executive member where executive arrangements are in place). The substitute member shall have the same rights of speaking and voting at meetings as the member for whom the substitution is made. The Secretary/Clerk for the Committee shall be informed prior to the commencement of any substitute members attending
<b>Voting</b>	<ul style="list-style-type: none"> <li>• One member one vote for local authority members</li> <li>• Normal rules as to declarations of interest to be applied in accordance with the Gloucestershire County Council Code of Conduct. The Chair has the right to decide whether observers declaring an interest can observe the meeting or should be asked to leave</li> <li>• Except as otherwise provided by the Local Government Acts 1972 and 1985, all questions shall be decided by a majority of the votes of the voting members present, the Chair having the casting vote in addition to his/her vote as a member of the Committee.</li> </ul>
<b>Administration</b>	<ul style="list-style-type: none"> <li>• The secretary/clerk shall keep proper accounts of the money received and expended by the Gloucestershire Joint Committee for the administration of the Committee and shall apportion the expenses of the Committee between the councils in proportion to the population of each council in the GFirst area.</li> <li>• This Terms of Reference and including the functions of the Committee may be amended at any time by the unanimous agreement of the voting members of the Committee.</li> </ul>
<b>Constitution</b>	The Constitution of Gloucestershire County Council shall apply to the Committee.
<b>Scrutiny Arrangements</b>	Decisions made by the Committee shall be subject to scrutiny by the Gloucestershire Economic Growth Scrutiny Committee.
<b>Gloucestershire Joint Waste Committee</b>	
<b>Membership</b>	10 (Quorum 4) [political proportionality rules do not apply].
<b>Quorum</b>	4 Members. Including at least one member appointed by each of the partner authorities. No business shall be transacted unless quorum is reached. If quorum is not reached within 30 minutes of the start of the meeting, (or if quorum ceases to be present during a meeting), the meeting shall be adjourned to the same time and venue within five working days of the meeting or to a date determined by the Chair.
<b>Comprising</b>	<p>Two members from each local authority (Cheltenham Borough Council, Cotswold District Council, Gloucester City Council, Gloucestershire County Council and Forest of Dean District Council), one of which will be a member of the partner authority's Executive.</p> <p>Each member shall remain in office until removed or replaced by his or her appointing partner authority, or in the case of an executive member, until he or she ceases to be a member of the executive of the appointing partner authority.</p>

## Appendices

<b>Frequency of Meetings</b>	<p>4 meetings per annum and at other such times as required.</p> <p>The committee will meet formally in public session on a quarterly basis with informal meetings, workshops and visits arranged as and when required. The committee may appoint working groups, comprising Gloucestershire Joint Waste Committee members; officers from the Administering Authority, and officers of any of the partner authorities, to consider specific matters and to report back to the committee with recommendations. Each partner authority may also send any of its officers to committee meetings to support its members or anyone invited to observe at meetings.</p>																														
<b>Role</b>	<p>The aims of the Gloucestershire Joint Waste Committee are to:</p> <ul style="list-style-type: none"> <li>(i) Provide a shared decision making body from which to improve services, deliver savings and minimise costs;</li> <li>(ii) Ensure a fair distribution of savings between partners and their council tax payers;</li> <li>(iii) Provide and improve good customer service within the bounds of the resources available;</li> <li>(iv) Undertake operations in an environmentally sustainable manner, and</li> <li>(v) Identify and share initiatives and best practice amongst partner authorities.</li> </ul> <p>Subject to the retained functions set out in paragraph 4 below, the statutory functions delegated to the Committee relating to the collection, management, disposal, treatment, or recycling of waste street cleansing are as follows:</p> <p><b>Environmental Protection Act 1990 Part II</b></p> <table border="1"> <tr> <td>Section 34</td> <td>Duty of Care - to prevent the unlawful deposit or treatment of waste in your control</td> </tr> <tr> <td>Section 45</td> <td>Duty to collect waste in your area and to make arrangements to collect, to collect commercial waste where requested.</td> </tr> <tr> <td>Section 46</td> <td>Authority to serve notice on householders to use prescribed receptacles for waste and to put them out for collection.</td> </tr> <tr> <td>Section 47</td> <td>Authority to provide commercial customers with receptacles</td> </tr> <tr> <td>Section 48</td> <td>Duty to deliver waste collected to specific places (as specified by the WDA)</td> </tr> <tr> <td>Section 51</td> <td>Duty to arrange for disposal and duty to provide HRCs</td> </tr> <tr> <td>Section 52</td> <td>Duty to pay recycling credits</td> </tr> <tr> <td>Section 55</td> <td>Duty to make arrangements to recycle waste</td> </tr> </table> <p><b>Waste and Emissions Trading Act 2003</b></p> <table border="1"> <tr> <td>Section 9</td> <td>Duty not to exceed allowances</td> </tr> <tr> <td>Section 12</td> <td>Duty to maintain records of biodegradable waste sent for treatment/disposal</td> </tr> <tr> <td>Section 31</td> <td>Power to make directions to WCAs as to separation of waste</td> </tr> <tr> <td>Section 32</td> <td>Duty to have in place a Joint Strategy for waste</td> </tr> </table> <p><b>Waste Minimisation Act 1998</b></p> <table border="1"> <tr> <td>Section 1</td> <td>Power to take steps to minimise waste</td> </tr> </table> <p><b>Household Waste and Recycling Act 2003</b></p> <table border="1"> <tr> <td>Section 1</td> <td>Duty to collect at least two types of recyclable waste</td> </tr> </table> <p><b>Environment Act 1995</b></p> <table border="1"> <tr> <td>Section 108</td> <td>Powers to take action to investigate pollution incidents or where harm to human health has been caused by pollution</td> </tr> </table>	Section 34	Duty of Care - to prevent the unlawful deposit or treatment of waste in your control	Section 45	Duty to collect waste in your area and to make arrangements to collect, to collect commercial waste where requested.	Section 46	Authority to serve notice on householders to use prescribed receptacles for waste and to put them out for collection.	Section 47	Authority to provide commercial customers with receptacles	Section 48	Duty to deliver waste collected to specific places (as specified by the WDA)	Section 51	Duty to arrange for disposal and duty to provide HRCs	Section 52	Duty to pay recycling credits	Section 55	Duty to make arrangements to recycle waste	Section 9	Duty not to exceed allowances	Section 12	Duty to maintain records of biodegradable waste sent for treatment/disposal	Section 31	Power to make directions to WCAs as to separation of waste	Section 32	Duty to have in place a Joint Strategy for waste	Section 1	Power to take steps to minimise waste	Section 1	Duty to collect at least two types of recyclable waste	Section 108	Powers to take action to investigate pollution incidents or where harm to human health has been caused by pollution
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## Appendices

Section 109	Powers to take action to investigate pollution incidents or where harm to human health has been caused by pollution
<b>Clean Neighbourhoods &amp; Environment Act 2005</b>	
Part 2	Abandoned Vehicles
Part 3	Litter and Refuse
Part 4	Graffiti
Part 5	Waste
<b>Local Government Act 1972</b>	
Section 111	Powers to act as a local authority In so far as its use is calculated to facilitate or is incidental or conducive to the discharge of any of the functions referred to in paragraphs (a) to (h) listed below (a) European Community Strategy for Waste Management 1989 (as reviewed in 1996); (b) EU Directive 757 4427 EEC as amended by Directive 917 1567 EEC and adapted by Directive 967 3507 EEC on Waste (The Framework Directives on Waste); (c) Environmental Protection Act 1990; (d) Public Health Act 1936; (e) Anti-Social Behaviour Act 2003; (f) Clean Neighbourhoods and Environment Act 2005; (g) Refuse Disposal (Amenity) Act 1978 (insofar as this relates to abandoned vehicles, public safety and amenity); (h) Environmental Protection (Waste Recycling Payments) Regulations 1992 (as amended 1994)
<b>Localism Act 2011</b>	
Section 1	Power of General Competence
<p>The functions retained by the individual partner authorities include:</p> <ul style="list-style-type: none"> <li>(i) Authorising changes to the Inter Authority Agreement, (agreed framework for the committee);</li> <li>(ii) Budget setting;</li> <li>(iii) Service changes;</li> <li>(iv) Collection and disposal methods and policy changes to such collection and disposal methods;</li> <li>(v) Procurement decisions in respect of the functions;</li> <li>(vi) Enforcement proceedings or other legal action in respect of the functions;</li> <li>(vii) Corporate media communications</li> </ul>	
<b>Host Authority</b>	The Committee will be hosted under local government arrangements by Gloucestershire County Council. The Host Authority will provide Secretary/Clerk, Section 151 and Monitoring Officer roles of the Committee.
<b>Chair</b>	A Chairman and Vice Chairman will be elected at the first committee meeting, and annually thereafter at the Annual General Meeting.
<b>Substitutes</b>	Where a substitute member takes the place of a committee member who is an executive member of the appointing partner authority, the substitute member must also be a member of the executive. The substitute member shall have the same rights of speaking and voting at meetings as the member for whom the substitution is made.
<b>Voting</b>	One member one vote.

## Appendices

<b>Constitution</b>	The Constitution of Gloucestershire County Council shall apply to the Committee.
<b>Scrutiny Arrangements</b>	Decisions made by the committee shall be subject to the scrutiny arrangements of the relevant partner authority.
<b>Gloucestershire Airport – Shareholder Forum</b>	
<b>Membership</b>	8 (Quorum 4) Cheltenham Borough Council and Gloucester City Council
<b>Quorum</b>	Two representatives, comprising 1 Member and 1 officer from each of Cheltenham Borough Council and Gloucester City Council, must be present for meetings to be quorate.
<b>Comprising</b>	Four representatives (1 voting Member and 3 officers) from each of Cheltenham Borough Council and Gloucester City Council  5 representatives from the Airport company shall also be entitled to attend and speak at Forum meetings but shall have no voting rights
<b>Frequency of Meetings</b>	4 meetings per annum, subject to review, and special meetings may be called if necessary.
<b>Location</b>	The location of Shareholder Forum meetings shall alternate between Cheltenham Borough Council offices, Gloucester City Council offices and Gloucestershire Airport offices.
<b>Chair</b>	Meetings shall be chaired by a shareholder Member representative and the Chair will alternate annually between the Cheltenham Borough Council and Gloucester City Council shareholder Members. The Chair of a meeting shall not have a casting vote.
<b>Support</b>	Support for arranging Shareholder Forum meetings, producing agendas and minutes and any other reasonable support shall be provided by the shareholding Council of the Chair of the relevant meeting. Each shareholder is responsible for ensuring that agendas and minutes of the Shareholder Forum and records of decisions taken by shareholder Members are published in accordance with each shareholder's own processes.
<b>Voting</b>	All decisions requiring shareholder approval must be unanimous and may only be taken by the shareholder Member representative of each Council.
<b>Role</b>	The Gloucestershire Airport Shareholder Forum has been established to provide a forum for the shareholding Councils to approve and oversee the performance of the Airport company and to enable the Airport's management to seek shareholder approval, where required. <ol style="list-style-type: none"> <li>1. To approve the Airport Strategy.</li> <li>2. To review the Airport Strategy, as and when required.</li> <li>3. To receive and approve the Airport Business Plan each year.</li> <li>4. To review the Airport Business Plan, as and when required.</li> <li>5. To receive and approve the Airport Budget each year, provided such Budget is within the financial framework of both shareholding Councils.</li> <li>6. To review the Airport Budget, as and when required.</li> <li>7. To monitor performance of the Airport company against the approved Airport Strategy, Business Plan and Budget and to request any necessary remedial action where performance is not in accordance with the approved Airport Strategy, Business Plan or Budget.</li> <li>8. To receive requests from the Airport company for any funding not within the approved Budget and to refer any such requests supported by the Shareholder Forum to each respective Council for decision.</li> <li>9. To receive requests from the Airport company for greater commercial freedom and to refer any such requests supported by the Shareholder Forum to each respective Council for decision</li> <li>10. To review and make recommendations to the Airport company on the Memorandum, Articles of Association and Shareholders' Agreement</li> </ol>

## Appendices

	<p>11. To report on Airport company performance to each shareholding Council at least annually.</p> <p>12. To provide a forum for communication between the Airport company and the shareholders, in particular on matters which impact the airport strategy and business plan delivery.</p>
<b>One Legal – Joint Monitoring and Liaison Group</b>	
<b>Purpose</b>	To oversee the performance and development of the Shared Legal Service on behalf of Gloucester City Council, Cheltenham Borough Council and Tewkesbury Borough Council ( the 'Councils' ).
<b>Membership and Frequency Of Meetings</b>	<p>(1) The Joint Monitoring and Liaison Group will consist of :-</p> <ul style="list-style-type: none"> <li>• 2 Members from Gloucester City Council</li> <li>• 2 Members from Cheltenham Borough Council</li> <li>• 2 Members from Tewkesbury Borough Council</li> <li>• 1 Officer from Gloucester City Council</li> <li>• 1 Officer from Cheltenham Borough Council</li> <li>• 1 Officer from Tewkesbury Borough Council</li> </ul> <p>(2) The Joint Monitoring and Liaison Group will receive reports from the Council Solicitor and the Lead Lawyers and other senior officers of the Councils as necessary to properly fulfil its overall purpose.</p> <p>(3) The quorum of the Joint Monitoring and Liaison Group will be 6 with at least 1 Member from each Council and 1 Officer from any one of the Councils in attendance.</p> <p>(4) The Chairman of the Joint Monitoring and Liaison Group will be a Member of Gloucester City Council or Cheltenham Borough Council.</p> <p>(5) The Vice-Chairman of the Joint Monitoring and Liaison Group will be a Member of Tewkesbury Borough Council.</p> <p>(6) The Joint Monitoring and Liaison Group may invite any Members or persons to attend its meetings but such persons will not be entitled to vote.</p> <p>(7) The Joint Monitoring and Liaison Group shall meet at least quarterly.</p> <p>(8) The following substitution rules shall apply:-</p> <ul style="list-style-type: none"> <li>• The number of substitutions shall be equal to the number of absentees from each Council and/or Political Group;</li> <li>• Substitutes will have all the powers of Joint Monitoring and Liaison Group members;</li> <li>• The Leader of the relevant council will notify the Council Solicitor 1 hour in advance of the meeting;</li> <li>• In respect of an officer substitution the Chief Executive or Managing Director of the relevant Authority will provide the notification;</li> <li>• Substitutions will be announced at the beginning of the meeting;</li> <li>• The Member of the Joint Monitoring and Liaison Group for whom substitution has been made will not be able to vote if attending the meeting.</li> </ul>
<b>Terms Of Reference</b>	<p>(1) To review and monitor the performance of the Shared Legal Service and to make recommendations for service improvements.</p> <p>(2) To monitor the delivery of the Shared Legal Service in accordance with the s101 Agency Agreement.</p> <p>(3) To determine any disputes or differences that arise between the Councils in accordance with the s101 Agency Agreement.</p> <p>(4) To consider and make recommendations to Tewkesbury in respect of any termination of, or appointment to, the role of Council Solicitor.</p> <p>(5) To monitor on a quarterly basis the 5 year Financial Plan set out in the s101 Agency Agreement.</p> <p>(6) To consider at the expiration of the Financial Plan a new Financial Plan for the remainder of the Shared Legal Service arrangement and to make recommendations to the respective Councils accordingly.</p>

## Appendices

	<p>(7) To approve and monitor Service Standards and Client reporting protocols and to propose improvements as appropriate.</p> <p>(8) To receive reports on improvements or changes to service delivery and to recommend for approval of major changes to the service delivery, to the respective Councils as necessary.</p> <p>(9) To receive reports on cases where conflicts between the interests of the Councils have arisen or are likely to arise.</p> <p>(10) To receive reports on any potential expansion of the Shared Legal Service including increased shared working with other Councils or other public bodies and to make recommendations to the respective Councils accordingly.</p>
<b>Regeneration Advisory Board</b>	
<b>Purpose</b>	<ul style="list-style-type: none"> <li>• to advise the Council, both Members and officers on matters relating to the regeneration of the City</li> <li>• to comment on whether regeneration proposals are consistent with the vision for the City, and to contribute to the evolution of that vision</li> <li>• to act as a forum for consultation on regeneration related matters</li> <li>• to reflect the views of residents and other stakeholders in relation to regeneration related matters</li> <li>• to consider and suggest options and help obtain resources for the regeneration of the City</li> <li>• to monitor progress of the City's regeneration.</li> <li>• to invite and receive presentations from developers.</li> </ul>
<b>Remit</b>	To work towards a vision for the City Centre that reflects the aspiration that Gloucester will be a flourishing, modern and ambitious City, which all residents can enjoy.
<b>Process</b>	<p>The Board will meet bi-monthly and the Chair will meet with City Council Group Leaders on a regular basis.</p> <p>At its initial meeting the Board will seek to establish methods of working and outcomes that will give the most benefit to the City Council as well as ensuring continued engagement from Board members.</p> <p>The Board will be serviced and assisted by City Council staff.</p> <p><b>a) Regeneration Advisory Group</b></p> <ul style="list-style-type: none"> <li>- The Dean of Gloucester, Stephen Lake</li> <li>- Three City Councillors (one from each political Group)</li> <li>- University of Gloucestershire</li> <li>- One representative of the current GHURC board</li> <li>- Major employer member</li> <li>- SME member</li> <li>- Community member</li> <li>- Heritage member</li> </ul> <p>The major employer, SME, community and heritage members will be selected by the other members of the Board on receipt of nominations or expressions of interest following local advertisement, subject to final approval by Council.</p> <p>Ad hoc meetings will be held with a wider range of community and business stakeholders as required.</p> <p>Protocols will be established for comment to the media.etc.</p> <p><b>b) Major Investors Group</b></p>

## Appendices

	<p>Membership:</p> <ul style="list-style-type: none"> <li>- The Dean of Gloucester, Stephen Lake</li> <li>- Council Leader</li> <li>- Aviva</li> <li>- Stanhope</li> <li>- Peel</li> <li>- Rockspring</li> </ul>
<b>Member Development Working Group</b>	
<b>Membership</b>	At least one Member from each political Group
<b>Purpose</b>	<ul style="list-style-type: none"> <li>• provide a Councillor-led strategic approach to councillor development</li> <li>• provide a high-quality and relevant Member induction programme</li> <li>• monitor, advise and promote internal and external Councillor learning and development activities</li> <li>• ensure that Member development activities are in line with the Council's objectives and address forthcoming local government and legislative changes</li> <li>• champion Councillor learning and development opportunities in the respective groups</li> <li>• evaluate the investment in Councillor learning and development to assess achievement and improve future effectiveness</li> </ul>

## Appendices

### GLOSSARY OF TERMS

**Definitions**

The words and phrases defined in this Section shall have the meanings set out below unless it is clear from another part, or section, of this Constitution that a different or alternate meaning is intended for the purposes of that part or section.

Glossary of Terms	Meaning or Description
<b>Access to Information</b>	There are a number of legislative provisions, which are integral to the Council's decision-making processes. The Council's rules relating to access to meetings and other documentation relating to meetings; including exempt and confidential information, can be found in Part 4 of this Constitution.
<b>Advisory Committee</b>	A Committee appointed by the Council to advise the Council on matters relating to the development of Policy and discharge of Council functions.
<b>Annual Meeting</b>	The ceremonial meeting of the full Council at the beginning of the Civic Year at which the positions of Chair and Leader of the Council are elected. Other business related to the beginning of a new municipal year is also conducted.
<b>Articles in the Constitution</b>	Set out the overall framework of what is to be done and by whom. Standing Orders, Codes of Conduct and the other documents forming part of the Constitution set out how the Articles will be put into effect.
<b>Authority, the</b>	Gloucester City Council.
<b>Background Paper</b>	Documents relating to the subject matter of a report which in the opinion of the Proper Officer: (a) disclose any facts or matters on which the report or any 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 <i>Exempt</i> or <i>Confidential Information</i> .
<b>Balanced or Hung Authority</b>	Also often referred to as a Hung Council. Where there is no overall political control by any one Political Group.
<b>Budget</b>	This includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virements limits.
<b>Cabinet</b>	The Cabinet and its Members (also referred to collectively as the Executive), operate within the policy framework and budgets set by the Council and this constitution, and are responsible for taking most of the day-to day decisions.
<b>Cabinet Members</b>	Those Councillors appointed to the Cabinet. Each Cabinet Member will be responsible for a portfolio (area of work) and attend, speak and vote at meetings of the Cabinet. Any power or responsibility given to a Cabinet Member as a portfolio holder may also be taken or actioned by the Leader.
<b>Call-in</b>	A process whereby non-executive Members can suspend an executive decision within five days of it being taken. The Overview and Scrutiny Management Committee will then meet to consider the decision and may refer it back to the decision-maker for reconsideration. (See overview and Scrutiny Manual).
<b>Capital Expenditure</b>	Expenditure to acquire fixed assets that will be used for more than the year in which they are acquired and which adds to the Council's tangible assets rather than simply maintain existing ones.
<b>Chair</b>	The person who presides over a meeting. The Mayor chairs the meetings of the full Council. Full Council appoints Chairs of Committees and Chairs of sub-committees are appointed by the sub-committee. The Leader of the Council will usually chair meetings of the Cabinet.
<b>S151 Officer</b>	The Officer appointed in accordance with S151 of the Local Government Act 1972 that has responsibility for the administration of the financial affairs of the authority.
<b>Chief Officers</b>	The Head of Paid Service and Officers designated by statutory positions. (see Article 11 – Officers of the Council).
<b>Clear Day</b>	A working day, not including weekends or bank holidays. Access to Information legislation insists that agenda and reports are published "five clear days" in advance. This excludes both the day of the meeting and the day on which the meeting is called.

## Appendices

<b>Code of Conduct for Members</b>	The document which has been adopted by Council setting out what is expected of Members and co-opted Members of the Authority in terms of their conduct and behaviour, as set out in Part 5 of this Constitution.
<b>Committee</b>	A group of Members (including non-voting co-opted Members) appointed to discharge a specific function. The Authority has various types of committees. There are committees both of the Council and of the Executive. The terms of reference of the Council committees and sub-committees are set out in Article 7 and also Part 3 of this Constitution.
<b>Community Health and Well-Being</b>	Means the degree to which persons resident in an area identify with that area and receive an increased quality of life as a result of the nature and the environment of the area.
<b>Confidential Information</b>	As defined in section 100A(3) of the Local Government Act 1972 as information which may not be disclosed to the public, or, information, the disclosure of which, is prohibited by or under any enactment or by the order of a court. The management of confidential information is explained in the Access to Information Procedure Rules set out in Part 4 of this Constitution.
<b>Constitution</b>	A document adopted by the Council which sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people.
<b>Contract Standing Orders</b>	Are contained in Part 4 of this constitution and set out the rules and procedure, which govern procurement of all goods, services and works for the Council and entering into contracts within the Council.
<b>Co-opted Member</b>	A Member of any committee or sub-committee of the Council (who is not an Independent Member, as defined below) and not a Councillor or Officer of the Council. Co-opted Members do not normally have voting rights on committees.
<b>Cost Centre</b>	A budgeting level which usually reflects a whole service area, or main sub category of a service. It encompasses a number of standard "subjective" coding areas such as those used for staffing related costs, supplies and services, income etc.
<b>Council Functions</b>	Those functions of the Authority, which cannot be exercised by an Executive.
<b>Council Meeting Procedure Rules</b>	Are the Standing Orders, which set out how meetings of the Council and most Committees will be conducted.
<b>Councillor</b>	An individual democratically elected to serve on the Council. There are restrictions as to who can hold office as a Councillor (Article 3 refers). Councillors are also often referred to as 'Members'.
<b>Council Solicitor</b>	Means the Borough Solicitor of Tewkesbury Borough Council in accordance with an agreement entered into between the Council and Tewkesbury Borough Council pursuant to sections 101(5), 102, 111 and 113 of the Local Government Act 1972 and under Part 1A Chapter 2 Section 9EB of the Local Government Act 2000 and pursuant to the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012
<b>Data Protection</b>	Processes and procedures for securing confidentiality and integrity of both electronic and manually held records whilst also providing disclosure and access of information as registered under the Act. NOTE. Information can only be held for the purposes for which it was collected.
<b>Delegated Power / Authority</b>	Authority, delegated by the Council (or an Officer discharging Statutory duties), to another decision-making body or individual decision-maker to make those decisions or discharge functions.
<b>Deputy Chair</b>	Will deputise for the Chair of the body, including chairing the meeting in the Chair's absence.
<b>Deputy Leader</b>	Will deputise for the Leader of the Council and be delegated to undertake any action or decision of the Leader in the Leader's absence or an ability to act.
<b>Designated Office</b>	The office designated for the posting and inspection of notices of meetings in Rules 4 and 5 of the Access to Information.
<b>Executive Arrangements</b>	Defined in section 10 of the Local Government Act 2000 as arrangements by a Local Authority for and in connection with the creation and operation of an Executive of the authority; and under which certain functions of the Authority are the responsibilities of the Executive.

## Appendices

<b>Executive Committees</b>	Committees set up by the Executive and to which the Executive has allocated Executive functions under section 15 of the Local Government Act 2000. Members of Executive Committees will be Members of the Executive.
<b>Executive Functions</b>	Any functions of the Authority which are not the responsibility of any other part of the Authority, whether by law or, where the law provides a choice, under the Constitution. The division of functions between the Executive and the Council are set out in Part 3 of this Constitution.
<b>Exempt Information</b>	Information falling within the categories set out in Schedule 12A of the Local Government Act 1972 (as amended) and subject to the relevant qualifications set out in that schedule. The management of exempt information is explained in the Access to Information Procedure Rules set out in part 4 of this Constitution.
<b>Extraordinary (or Special) Meeting</b>	A meeting of the Council, a committee or the Executive, called in addition to ordinary meetings, to consider a particular issue.
<b>Financial Procedure Rules</b>	Are contained in Part 4 of this Constitution and set out the rules and procedure, which govern financial management and control within the Council.
<b>Five Clear Days</b>	A period of five days, excluding the day of the meeting, the day on which the meeting is called, weekends and bank holidays during which copies of the agenda and reports of a meeting must normally be available for inspection under Rule 5 of the Access to Information Rules.
<b>Forward Plan</b>	A document prepared by the Policy and Governance Manager on behalf of the Leader which contains details of all the matters likely to be the subject of Key Decisions to be taken by either the Executive or its Committees or Officers and may also include other important decisions to be taken by the Council, its Committees or Officers over the next twelve months.
<b>Freedom of Information</b>	Processes and procedures to enable the public to formally access information held by public bodies subject to certain exemptions.
<b>Full Council</b>	A formal meeting which all Councillors of the Authority are entitled to attend.
<b>Good Governance Statement and Framework</b>	The Council annually reviews a Good Governance Local Framework as recommended by the Audit and Governance Panel and based on the 6 principles outlined in "Delivering Good Governance" a CIPFA / SOLACE Publication. The framework is adopted and then summarised in an Annual Governance Statement.
<b>Audit , Risk and Assurance Manager</b>	The Audit, Risk and Assurance Manager undertakes all responsibilities referred to as Head of Internal Audit.
<b>Head of Internal Audit</b>	The Audit, Risk and Assurance Manager is for legislation and regulation purposes the Head of Internal Audit.
<b>Head of Paid Service</b>	The Officer appointed by the Authority in accordance with section 4 of the Local Government and Housing Act 1989 who has overall corporate management and operational responsibility within the Council.
<b>ICT</b>	Information and Communication Technology – the term used to cover all computer and telephone equipment, hardware, firmware, software, licenses, infrastructure, data and communication lines, mobile phones and all other telephone equipment and recorded in the ICT Asset Database which is held by the Group Manager, Business Transformation and Technology.
<b>Independent Member (Drawn from the Community)</b>	A representative drawn from the community to sit on a Panel or advisory group. Includes a Member of the <i>Independent Member Remuneration Panel</i> who is not a <i>Councillor</i> or <i>Officer</i> of the Council. Not to be confused with an elected Member (see below).
<b>Independent Member (Political Description)</b>	Generic term for elected Member(s) who have not joined an existing, or formed their own political group on the Council for purposes of proportionality.
<b>Joint Committee</b>	A Committee comprising Members of two or more Local Authorities created under Section 102(1) of the Local Government Act 1972.
<b>Key Decision</b>	A decision in relation to a Cabinet 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. A decision that is likely to have a significant impact on two or more wards within the Local Authority. A decision in relation to expenditure in excess of £100,000 or significant savings. A decision in relation to any contract valued in excess of £500,000. A decision taker



## Appendices

	may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.
<b>Leader of the Council</b>	The Leader of the Council is elected by the Council annually and is the political spokesperson of the Council. The Leader appoints a "Cabinet" of Members some or all of which will be responsible for a specific area of expertise known as a "Portfolio". The Leader of the Council may take decisions or actions on behalf of Cabinet Members (Portfolio Holders) in their absence or an ability to act.
<b>Licensing Code of Practice</b>	The document, which has been adopted by the Council to regulate the performance of its licensing function. The main objectives of the Code are to guide Members and Officers of the Council in dealing with licensing related matters and to inform potential licensees and the public generally of the standards adopted by the Council in the exercise of its licensing powers.
<b>Local Assessment</b>	A process to receive and assess complaints that Members have failed to follow their Code of Conduct.
<b>Local Strategic Partnership</b>	The Local Strategic Partnership (LSP), which brings together the different parts of the public, private, community and voluntary sectors with the aim of improving the quality of life for everyone in the borough.
<b>Managing Director</b>	The Head of the Paid Service as defined in section 4 of the Local Government and Housing Act 1989.
<b>Mayor of the Council</b>	The Mayor is the "first citizen" of the city and is elected annually to preside at Full Council Meetings and to promote the Council's constitution, procedures and rules and ensure that they are followed during Council Meetings. The Mayor will undertake a number of Civic events and ceremonies and will represent the Council on formal occasions.
<b>Member</b>	A Councillor generally or, in relation to a committee or sub-committee, a Member of that committee or sub-committee. The Chair and Leader of the Council will be treated as Member of the Council unless the law or context requires otherwise.
<b>Members' Allowances Scheme</b>	Contained in Part 6 of this Constitution and sets out the scheme under which the Councillors, Independent Members and Co-opted Members are entitled to receive allowances in respect of carrying out their duties and for fulfilling any special responsibilities allocated to them.
<b>Monitoring Officer</b>	The Officer appointed by the Authority in accordance with section 5 of the Local Government and Housing Act 1989 to report to it on any proposal, decision or omission by the Authority, or its committees or sub-committees, or its Officers, which has given, or may give rise, to a contravention of law or statutory code of practice or to such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974.
<b>Officers</b>	The Council's staff.
<b>Overview and Scrutiny Management Committee</b>	A committee established by Council to undertake overview and scrutiny functions as set out in section 21 of the Local Government Act 2000 and subsequent legislation. It consists of Councillors who are not Members of the Executive and reflects the political balance of the Council. The Management Committee holds the Executive to account through consideration of executive decisions. It is also able to undertake policy reviews of Council functions and anything else affecting the economic, social or environmental well-being of the city's residents.
<b>Overview and Scrutiny "Task and Finish" Group</b>	Undertakes overview and scrutiny functions relating to particular themes or service areas as determined by the Overview and Scrutiny Management Committee. The Panels are politically balanced and report their findings and recommendations to the Overview and Scrutiny Management Committee for approval. The work of the panels is fully scoped, resourced and timetabled from the start to ensure effective scrutiny and overview.
<b>Parish Member</b>	A member of a Parish Council wholly or mainly in the city.
<b>Partnership Arrangement</b>	An arrangement between Gloucester City Council and one or more other bodies or persons to achieve objectives of the Council and at least one of the other parties but which is not a contract for the provision by one party to another of a supply, service or works in exchange for a fee or other consideration.
<b>Planning Code of Practice</b>	The document, which has been adopted by Council to regulate the performance of its planning function. The major objectives of the Code are to guide Members and Officers of the Council in dealing with planning related matters and to inform potential

## Appendices

	developers and the public generally of the standards adopted by the Council in the exercise of its planning powers.
<b>Policy Framework</b>	A set of plans and strategies set down by legislation (for list see Article 4). Approving or adopting the elements of the policy framework is a function reserved to the full Council.
<b>Political Group</b>	Two or more Members may form a Political Group on the Council for the purposes of Political Proportionality of Members on Committees and certain bodies.
<b>Portfolio</b>	The responsibilities or roles allocated to a Cabinet Member usually the spokesperson.
<b>Proper Officer</b>	Has a statutory definition in section 270(3) of the Local Government Act 1972 and means, in relation to any purpose, the Officer appointed for that purpose by the Authority or for that area, as the case may be. A non-exclusive list of the Proper Officers can be found in the Scheme of Delegation to Officers in Part 3 of this Constitution.
<b>Proportionality (Political)</b>	A mathematical calculation to ensure that political balance is maintained in the membership of the Council's main committees.
<b>Protocol</b>	A document forming part of the Constitution, which sets out a guide to the way, certain individuals and groups interact with each other. They are not rules but they do give guidance and agreements on how things should operate.
<b>Quorum</b>	The number of Members of the Council, the Executive, a Committee or sub-committee required to be present to allow a meeting to transact business validly. The quorums for each body are set out in the relevant procedure rules in part 4 of this Constitution.
<b>Revenue</b>	Income or expenditure arising from or spent on day to day activities and short lived commodities or consumables.
<b>Scheme of Officer Delegation</b>	A record of which powers are delegated to specific Officers and which may be sub-delegated further to individuals.
<b>Scrutiny Rules</b>	This sets out how the Overview and Scrutiny Management Committee and Scrutiny Committees function including the structure of the Overview and Scrutiny process.
<b>S151 Officer</b>	The Officer appointed in accordance with S151 of the Local Government Act 1972 and who has responsibility for the administration of the financial affairs of the authority.
<b>Senior Information Risk Officer (SIRO)</b>	The SIRO is 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.
<b>Senior Management Team (SMT)</b>	The Team made up of the Head of Paid Service and Corporate Directors which meets regularly to discuss strategic and operational matters and make decisions.
<b>Service Plan</b>	A plan setting out priorities and service ambitions.
<b>Special Meeting</b>	A meeting of the Executive, any Committee or Sub-Committee of the Council or any Scrutiny body, which was not on the calendar of meetings agreed at the Annual Meeting but is called by the Chair to consider a particular item, or items, of business in accordance with Access to Information provisions.
<b>Special Responsibilities</b>	Roles undertaken by Members for which an Allowance is payable. These include The Chair and Leader of the Council as well as Chairs of specific Committees.
<b>Standing Orders</b>	Rules, which the Council has adopted to regulate its business and proceedings. There are also separate Standing Orders relating to the appointment and dismissal of staff and the process leading up to and the making of contracts. These are set out in Part 4 –Council Meeting procedure Rules.
<b>Statutory Officers</b>	The Head of Paid Service, the S151 Officer and the person appointed as Monitoring Officer or their Deputies are collectively known as Statutory Officers for the purpose of this Constitution.
<b>Sub-committee</b>	A group of Members (including where appropriate co-opted Members) appointed by a Committee to take responsibility for one or more aspects of its functions or function.
<b>Sub-delegation</b>	Specific delegation to an individual to undertake specific actions. Must be recorded in the Scheme of Officer Delegation.
<b>Task-finish Scrutiny Group</b>	A body that may be created by the Overview and Scrutiny Management Committee to undertake a time-limited review of a specific issue as defined within terms of reference set by the Management Committee. The Panel will conclude its work by

## Appendices

	reporting to the Management Committee and is likely to make recommendations for the Management Committee to consider.
<b>Virement</b>	A transfer of resources between or within approved cost centres for both revenue and capital processes.
<b>Ward</b>	A geographical area of the city represented by one or more Councillors.
<b>Ward Scheme</b>	A scheme by the Local Government Commission and approved by the Secretary of State setting out the Wards of the city and how many Councillors will represent each Ward.
<b>Well-being</b>	See Community health and well-being above.

## Appendices

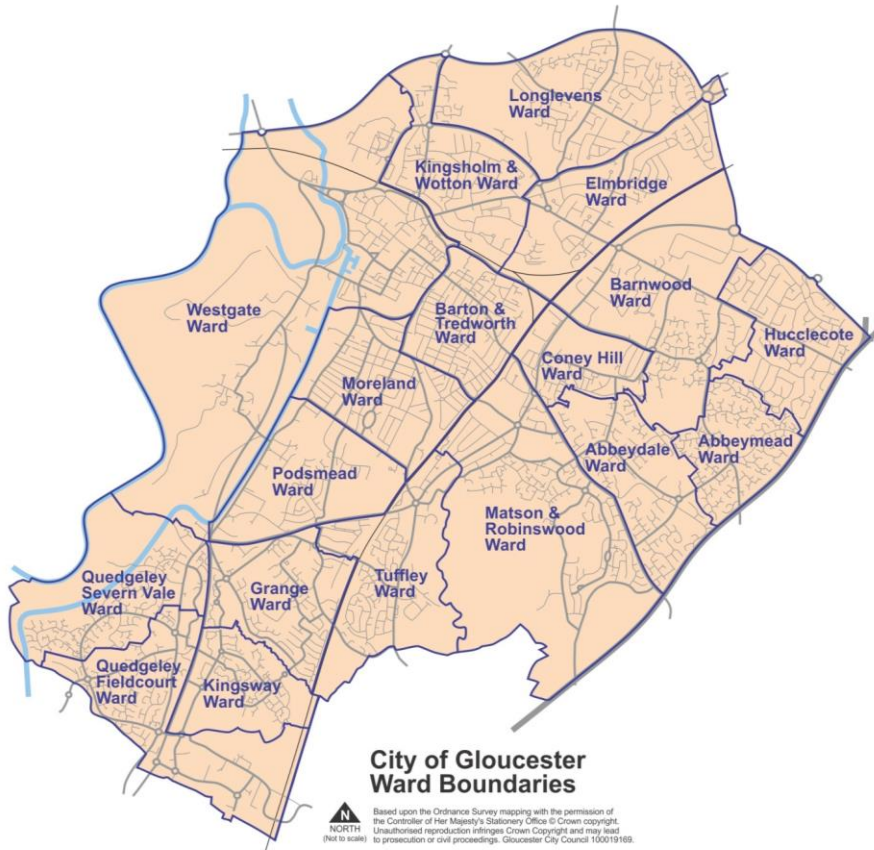
### ABBREVIATIONS AND ACRONYMS

<i>Abbreviations and Acronyms</i>	Meaning
ABC	Acceptable Behaviour Contract
ACAS	Advisory, Conciliation and Arbitration Service
ADZ	Alcohol Disorder Zones
ASBO	Anti-Social Behaviour Order
CIPFA	Chartered Institute of Public Finance and Accountancy
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
<b>Planning Related</b>	
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

## Appendices

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
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

## Appendices



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## COUNCILLOR CODE OF CONDUCT FOR GLOUCESTER CITY COUNCIL

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Gloucester City Council (“the Council”) adopted this code of conduct on xxxx to come into force on xxxx. The Code sets out the conduct that is expected of you when acting, or behaving in a manner to give the impression of acting as a Gloucester City Councillor and conducting council business. The Code does not seek to regulate Councillors’ private or personal lives.

The Code of Conduct is based upon the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

In undertaking your duties as a Councillor

1. You must comply with the law.
2. You must not behave in a way that a reasonable person would regard as disrespectful to them.
3. You must not bully or intimidate or attempt to bully or intimidate any person.
4. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
5. You must not bring the Council, or your office as a Councillor, into disrepute.
6. You must not do anything which may cause the Council to breach any equality enactment
7. You must not use or attempt to use your position as a Councillor improperly to confer on or secure for yourself or any other person any advantage or disadvantage.
8. You must always use the resources of the Council in accordance with the Council’s reasonable requirements and never use those resources for party political purposes.
9. If, because of your membership of the Council, you are in receipt of or are offered any gift or hospitality with an estimated value of £100 or more you must disclose this to the Monitoring Officer within 28 days of receipt; and you must decline to accept any gift or hospitality which could reasonably be perceived as creating an obligation upon the Council, or upon yourself as a member of the Council.
10. You must not knowingly prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
11. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:

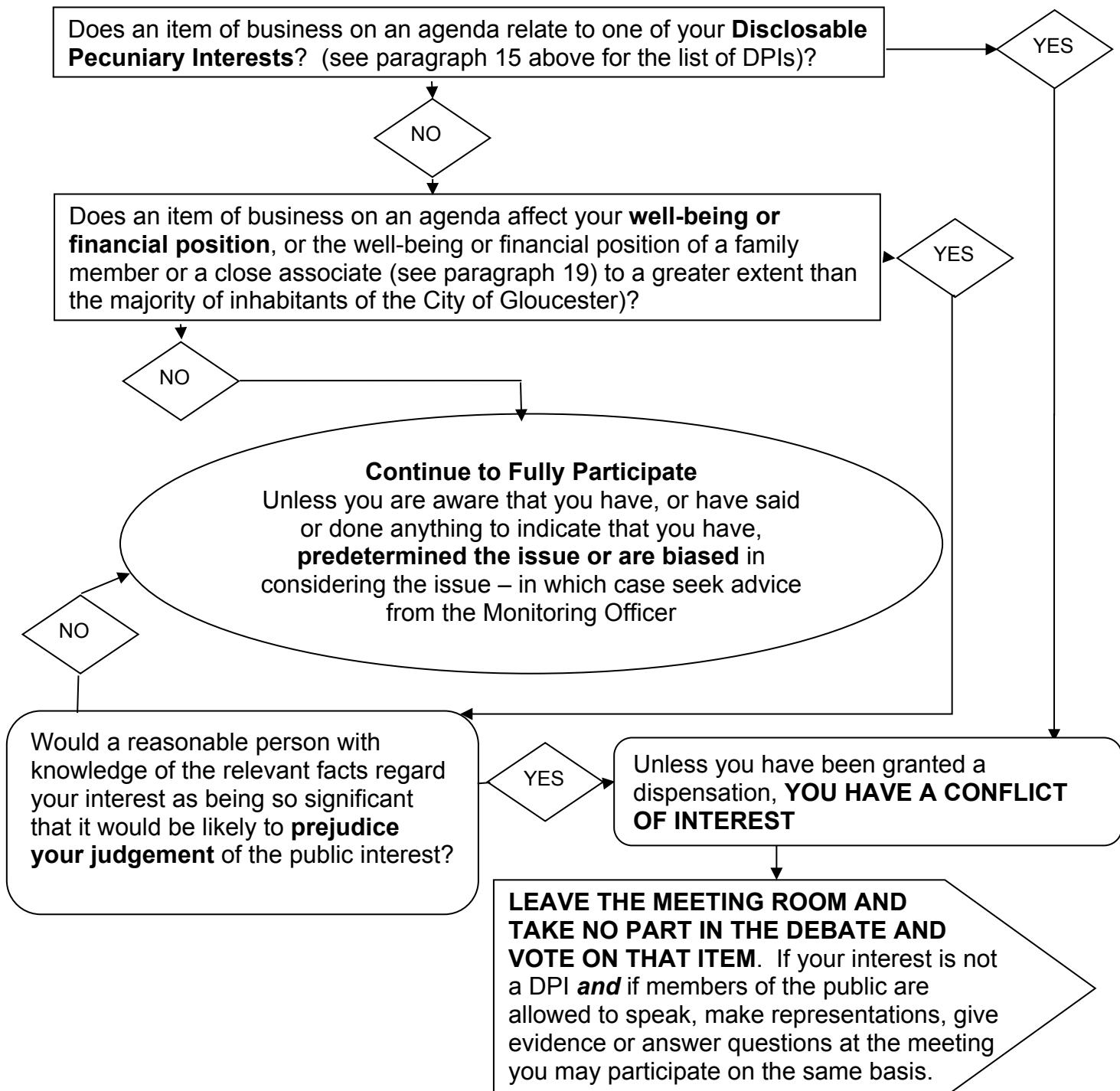
- You have the consent of a person authorised to give it; or
  - You are required by law to do so; or
  - The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
  - The disclosure is reasonable, in the public interest, made in good faith, and made in compliance with the reasonable requirements of the Council.
12. You must not take part in the scrutiny of any decision you have been involved in making – except that you may provide evidence or opinion to those undertaking the scrutiny process.
13. The Council’s Monitoring Officer will maintain a Register of Interests for Councillors and Co-opted members. Subject to paragraph 16 (Sensitive interests), you must register your interests in the Council’s Register of Interests. In this code of conduct “your interests” means any disclosable pecuniary interest as defined in paragraph 15 below, where those interests are held
- by you, or
  - to your knowledge, by your spouse or civil partner, by a person with whom you are living as a spouse, or by a person with whom you are living as if you were civil partners.
14. You must register information regarding your interests by giving written notice to the Monitoring Officer, who maintains the Register; and you must give such notice:
- before the end of 28 days beginning with the day of your appointment as a member of the Council; and/or
  - before the end of 28 days beginning with the date of any change in your interests.
15. The following are disclosable pecuniary interests referred to within paragraph 13:
- Your employment, office, trade, profession or vocation carried on for profit or gain;
  - Any payment or provision of any other financial benefit (other than from the Council) made or provided in respect of any expenses incurred by you in carrying out your duties as a Councillor or co-opted member or towards your election expenses including any payment or financial benefit from a Trades Union;
  - Any contract which is made between you (or a body in which you have a beneficial interest) and the Council for the provision of goods or services or the exchange of works and which has not been fully discharged;
  - Any beneficial interest which you have in land which is within the Council’s area
  - Any licence you hold either alone or jointly with others to occupy land in the Council’s area for a month or longer;
  - Any tenancies where you know that the Council is the landlord and that the tenant is a body in which you have a beneficial interest
  - Any beneficial interest in securities in a body where you know that body has a place of business in the Council’s area and either



1. the total nominal value of the securities exceeds £25,000 or one hundredth of the total share capital or
  2. if the share capital of the body is more than one class, the total nominal value of the shares of any one class in which you have a beneficial interest exceeds one hundredth of the total issued share capital in that class.
16. Where you consider that disclosure of the details of any of your interests could lead to you, or a person connected with you, being subject to violence or intimidation, you should tell the Monitoring Officer; and if the Monitoring Officer agrees, a note will be made in the register to the effect that you have a registerable interest, details of which are withheld under Section 32 of the Localism Act 2011.
17. Where you attend a meeting of the Council, or of a Committee of the Council, and you are, or ought reasonably to be, aware that any of your interests are relevant to an item of business which is being considered, then unless the interest is one which has been registered under paragraph 12, you must disclose to that meeting the existence and nature of that interest at the commencement of that item of business, or when the interest becomes apparent, if later.
18. Where you attend a meeting of the Council, or of a Committee of the Council, and you are, or ought reasonably to be, aware that a decision in relation to any item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 19 to a greater extent than the majority of inhabitants of the City of Gloucester, then you must disclose to that meeting the existence and nature of that interest at the commencement of that item of business, or when the interest becomes apparent, if later.
19. The persons referred to in paragraph 18 are:
- (a) a member of your family (spouse/civil partner/someone living with you as if a spouse of civil partner, parent, parent -in-law, son/daughter, step children or the partners of these people);
  - (b) any person with whom you have a close association;
  - (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.
20. You must comply with the Procedure Rule adopted by the Council which requires Councillors to leave the room and take no part during that part of any meeting at which a matter in which you have a disclosable pecuniary interest or other interest as described in paragraph 18 above, is being discussed.
21. You may make a written request to the Monitoring Officer seeking a dispensation to enable you to participate in a matter. Either the Audit and Governance Committee or the Monitoring Officer may agree to grant a dispensation in the following circumstances: -

Where so many members of the decision-making body have DPIs in a matter that it would “impede the transaction of the business”. (Monitoring Officer)

1. Where, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter. (Monitoring Officer)
2. Where the dispensation is in the interests of persons living in the Council’s area. (Audit and Governance Committee)
3. Where, without a dispensation, no member of the Executive would be able to participate in a matter before the executive. (Monitoring Officer) or
4. Where the Audit and Governance Committee considers that it is otherwise appropriate to grant a dispensation.



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## EMPLOYEE CODE OF CONDUCT FOR GLOUCESTER CITY COUNCIL

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Gloucester City Council (“the Council”) adopted this code of conduct on xxxx to come into force on xxxx. The Code sets out the conduct that is expected of you when acting as an Employee of Gloucester City Council and conducting council business including full-time and part time staff, permanent, temporary, casual or agency staff, secondees, work placements, apprentices and trainees.

The Code does not seek to regulate employees’ private or personal lives, but care must be taken to ensure that nothing is done that would bring council work and private interests into conflict or bring the employee or the Council into disrepute.

### **Purpose of this Code of Conduct**

The people of Gloucester are entitled to expect conduct of the highest standard from all the Council’s employees. All employees are expected to act in accordance with this Code, it forms part of the terms and conditions of employment, and failure to comply may result in disciplinary action.

The Code of Conduct is based upon the seven principles of public life selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

### **Employee’s responsibilities**

You are expected to:

1. Maintain conduct of the highest standard so public confidence in your integrity is sustained
2. Ask for clarification from your manager on any aspects of the Code that are not clear
3. Incorporate and promote equality in all that you do
4. Keep up to date with the latest version of the Code and follow it at all times.

### **Manager’s responsibilities**

Your manager is responsible for the application of this policy in their work area and will

1. Set a positive personal model of behaviour
2. Ensure standards in the Code are established and communicated
3. Provide clarification, where required, to improve employee understanding
4. Take proper action at the earliest opportunity to manage non-compliance with the standards set out in this Code

### **1 Public funds**

- 1.1 All employees must act with probity, financial control and honesty and adhere to arrangements for the prevention and detection of fraud and corruption.
- 1.2 All employees must comply with the Council’s Financial, Contract and Procurement Regulations, the Anti-Fraud and Corruption Strategy, Anti Bribery

Policy, Anti Money Laundering and Confidential Reporting (Whistle Blowing) Policies.

- 1.3 Orders and contracts must be awarded on merit, by fair competition against other tenders and no special favour should be shown in the tendering process to businesses operated or controlled by friends, partners or relatives.

## **2 Customers**

- 2.1 All employees should be courteous, efficient and impartial. Staff who work with customers who behave aggressively should familiarise themselves with the best practise for dealing with violence and aggression.

## **3 Other Employees**

- 3.1 All employees must treat colleagues, including those not directly employed by the council, with courtesy and respect, and must not abuse them verbally or physically. Staff must not harass or bully or be insubordinate to colleagues and must comply with the standards set out in this Code in relation to equalities.
- 3.2 Employees who are in a partner, family or emotional relationship may at some time work together. Such personal relationships seldom interfere with work and the presumption will be that the relationship will not affect performance. However, there are situations when a personal relationship between employees becomes a management concern and may unintentionally impair operational efficiency or affect the integrity of service delivery. Employees must declare any personal relationship with another employee, where the relationship could affect, or could be perceived to affect performance.
- 3.3 In any situation where employees in a personal relationship work in close proximity, the council reserves the right (without breach of contract) to require one or both employees to change their roles or duties. This is intended to avoid the employees in a relationship finding themselves in a potentially difficult situation and avoid perceptions of undue influence or unfairness (whether real or imagined).

## **4 Equalities**

- 4.1 All members of the local community, customers, councillors and colleagues have a right to be treated with fairness and equity and be confident that they will not be discriminated against because of their age, gender, gender reassignment, disability, pregnancy/maternity status, race or ethnicity, religion or belief, their economic and social background, those with responsibilities as a carer, those who are married or in a civil partnership, or any other ground that cannot be shown to be justified.
- 4.2 All employees must take care to do nothing that may cause them or the Council to breach any equality enactment.

## **5 Health and Safety**

- 5.1 All employees shall comply with the Council's Health and Safety policies and procedures and must ensure that they do not act wilfully or intentionally in a manner liable to place the public, colleagues, themselves or the Council at risk.
- 5.2 Smoking is not allowed in any of the Council's premises and any employee who is identified as having an alcohol related or substance abuse problem will be treated in accordance with the guidance notes on alcohol and substance abuse.

## **6 Conflicts of Interest**

- 6.1 All employees must avoid creating a conflict of interests between their private life and their public duties. The council reserves the right to bring action against an employee where their conduct outside work conflicts with their public duties, for example where conduct outside of work could undermine the council's reputation or public confidence.
- 6.2 Serious misconduct or criminal offences committed during or outside working hours, which bring the employee or the council into disrepute, will be subject to disciplinary action under the council's Disciplinary policy, and may result in dismissal. Employees must inform the Monitoring Officer if they are convicted of a criminal offence.
- 6.3 Employees who are involved with granting permissions, approvals, consents or benefits, must take no part in considering any application made by the employee or their, relative, friend or neighbour.
- 6.4 All staff appointments will be made on merit. In order to avoid any possible accusation of bias, employees should not be involved in an appointment, either on an Appointment Panel or as a referee, if they are related to an applicant, or have a close personal relationship with them outside work. Employees should not be involved in decisions relating to discipline or other sanction, or in decisions relating to pay, where they are related to, or have a close personal relationship with, the employee who is subject to that decision.
- 6.5 Employees must declare any financial or other interest - whether direct or indirect - in any existing or proposed contract with the Council or any other interest or association with any council activity, which could cause a potential conflict of interest these include but are not limited to decision-making, the management of contracts and giving policy advice.
- 6.6 All declarations must be made in writing to the Monitoring Officer. The Monitoring Officer can also provide advice to ensure compliance with this requirement.

## **7 Secondary Employment**

- 7.1 Employees may undertake secondary employment such as: work on a voluntary, fee-paying or recognition-in-kind basis; or engaging in any other business; as well as secondary employment within the council itself.
- 7.2 Employees on or above Grade F (Scale Point 29) must obtain the express consent of their Head of Service prior to engaging in any other business or taking up any secondary employment. Employees must subsequently keep their Chief Officer advised of any changes to their secondary employment.
- 7.3 Secondary employment outside the council must not conflict with the council's interests or bring it into disrepute. You are not permitted to undertake secondary employment during your working hours, use council property, equipment or associated documents or communications.
- 7.4 The Council reserves the right to take action if secondary employment is deemed to be detrimental to the interests or reputation of the council, or where it affects an employee's work performance.
- 7.5 Employees may not become a trustee or board member of any organisation which receives any form of funding from the council except with the express consent of their Head of Service, after consultation with the Monitoring Officer.
- 7.6 Employees must not engage in secondary employment which is set up in competition with the Council or compete with the Council for a contract while still employed by the Council or canvass other Council employees to induce them to join a business which is set up in competition with the Council.

## **8 Gifts, Hospitality and Inducements**

- 8.1 It is a criminal offence for an employee to accept money or reward other than their proper pay.
- 8.2 Small gifts may only be accepted when they are low cost, functional items suitable for business use, rather than personal use, e.g. diaries, calendars, pens. Any other gifts should be returned officially with a suitable letter of explanation. If they cannot be returned, they should be given to the Head of Paid Service for donation to the Mayor's Charity
- 8.3 Visits by employees to exhibitions, demonstrations, conferences, business meals, and social functions, in connection with their official duties shall be at the council's expense.

- 8.4 Hospitality, in the form of meals and drinks, offered by a third party, is only acceptable where it forms a minor part of normal business meetings/discussions held during the normal working day.
- 8.5 Other offers of hospitality, e.g. invitations to dinners, cultural performances, sporting events, awards ceremonies etc, should only be accepted if there is a clear and demonstrable benefit to the council, and the hospitality would not expose the council to criticism that the provider of the hospitality was achieving undue influence or creating the perception of an obligation. Attendance must have the Head of Paid Service's approval in advance and must be recorded in the register of gifts and hospitality.
- 8.6 Informal social contact e.g. drinks in a public house, with representatives of organisations, which supply, or hope to supply, goods or services to the council must always be avoided. Where such instances do occasionally take place, i.e. after late working, employees should ensure that the other party does not meet the costs of such contact in full. Employees should record such events in the register of gifts and hospitality.
- 8.7 The register of gifts and hospitality is held by the Monitoring Officer and is subject to regular Audit inspection.
- 8.8 Employees should not engage the services of contractors commissioned by the council when acquiring materials, labour or plant at cost, trade or discount prices. Whilst such an arrangement may constitute a saving it puts employees in a compromising situation which may bring them and the council into disrepute.
- 8.9 Customers may seek to express their thanks to employees by offering gifts, money etc. Employees should refuse such 'gifts' politely and explain why you cannot accept them before reporting this matter to their line manager.
- 8.10 The prevention, detection and reporting of bribery is the responsibility of all employees and all staff are required to avoid any activity that might lead to, or suggest, a breach of the Bribery Act 2010.

## **9 Political Neutrality**

- 9.1 All employees serve the council as a whole and not just the controlling group - and must ensure the individual rights of all councillors are respected.
- 9.2 All employees must follow the lawfully expressed policies of the Council and must not allow their own personal or political opinions to interfere with their work
- 9.3 Employees in politically restricted posts must comply with the statutory restrictions on their political activities.

- 9.4 Whilst engaged in council business, employees must not wear or display any objects indicating support for or opposition to any political party or view. This applies to private vehicles used whilst undertaking council business.
- 9.5 Employees must declare any personal relationship with a Councillor. Where the relationship could present a conflict of interest, your manager will need to consider how this will be effectively managed.

## **10 The Media**

- 10.1 All communications with the media relating to the activities of the council should be handled through the communications team at [coms@gloucestershire.gov.uk](mailto:coms@gloucestershire.gov.uk)
- 10.2 No employees should communicate with the media on matters relating to the activities of the council without authorisation from the communications team and journalists should be referred to the communications team.
- 10.3 Employees with ideas for positive stories about the council should contact the communications team.
- 10.4 Any employee that wishes to write material for publication which does not refer to the council but relates to their profession (e.g. an article in a professional journal), should advise their manager before publication. The article should also contain a disclaimer, which states that the views are those of the individual and not of the council.

## **11 Use of Council Facilities and Systems**

- 11.1 The council's property and facilities are provided for official council business. All council owned portable equipment and devices must be returned on leaving council employment and any council-owned or supplied data must be deleted. Access to systems used for council purposes must be terminated permanently.
- 11.2 Any property, equipment or devices provided to employees for business use must be used in compliance with the terms, conditions and use policies provided at the time the equipment was issued (or as they may be updated from time to time).
- 11.3 The council has the right to access and monitor communication systems provided to you, and will monitor usage of its communication systems e.g. telephone, email and Internet access, to ensure their proper use and will run reports detailing usage levels of staff.
- 11.4 Systems may be accessed when the council suspects an employee has been misusing council facilities, or, for the investigation of suspected fraud or other irregularity. In addition, where service delivery reasons exist, an employees' senior officer, may approve access to emails when an employee is absent.



Access to facilities may be temporarily suspended whilst an investigation is on-going and may be permanently withdrawn where misuse is detected. Cases of 'misuse' may result in disciplinary action being taken - this may include dismissal.

11.5 Email and the Internet are available for work use and provisions apply as part of agile working. External email is not secure, employees must take this into account when choosing how personal and confidential information is communicated. Good practice guidelines for the use of email and the Internet are available on GlosNet.

11.6 Never send inappropriate comments by email.

11.7 Be aware contracts formed by email or over the Internet might be legally binding. Any contractual agreement, offer or acceptance must only be made electronically if you have authority to do this or where specific management authorisation has been given.

## **12 Social networking websites**

12.1 All employees are encouraged to exercise discretion and use social media responsibly at all times this is to protect the Council's operations, confidential information and reputation. The following applies to all employees who use social networking websites at work or in their private life:-

- 1) Avoid making any social media communications that could damage the council's business, operations or reputation, even indirectly.
- 2) Don't use social media to:
  - defame or disparage the council, staff or any third party;
  - harass, bully or unlawfully discriminate against staff or third parties;
  - make false or misleading statements; or
  - impersonate colleagues or third parties
- 3) Don't express opinions on the Council's behalf, unless expressly authorised to do so by your manager: you may be required to undergo training in order to obtain such authorisation.
- 4) Don't post comments about sensitive business-related topics, such as draft proposals or information belonging to any organisation (or person) with which the council works in partnership.
- 5) Don't do anything to jeopardise the Council's confidential information and intellectual property.
- 6) Never include our logos or other trademarks connected to the council's work in any social media posting or in your profile on any social media.

## **13 Handling Information**

13.1 All employees must comply with the Data Protection legislation and the Council's Data Protection Policy.

13.2 Employees may be required by law to disclose certain types of information to Councillors, auditors, government departments, service users and the public. Information should be disclosed unless there is a good reason for not doing so.

13.3 Information which must be kept confidential includes:

- a) Commercially sensitive information
- b) Personal details of colleagues
- c) Reports and Minutes which are Confidential or Exempt from publication
- d) The Council's internal documents (unless the law says that the information must be made public or as instructed by a Manager)

13.4 Employees must not reveal any information to anyone else unless they have a legal responsibility to provide it, or where the employee, client, contractor, debtor or creditor concerned gives them written permission to do so.

13.5 Employees must not use information obtained through work for their personal benefit or gain, nor may they pass it on to anyone else who might use it in such a way.

13.6 All employees should exercise reasonable judgement in communicating information, particularly information which may bring the Council in to disrepute or cause it harm, to any person or organisation outside the Council.

## **14 Whistleblowing**

14.1 The council does not tolerate any form of malpractice. Every employee has an important part to play in reporting any concerns, and all staff are expected to cooperate with investigations. Although it is often difficult for employees to report legitimate concerns through fear of victimisation or reprisal, please be assured that in raising concerns you will be supported. Please refer to the Whistleblowing policy for more information.

## **15 Compliance with the Code**

15.1 This Code is part of your contract of employment. An extract of the Code is issued to every employee as part of their terms and conditions of employment, together with advice on how to access the full document.

15.2 Failure to comply with any of the provisions included in this Code may result in disciplinary action being taken under the Disciplinary policy, or legal action if necessary.

## **16 Additional guidance and support**

16.1 This policy provides an overview of the purpose of the policy and the roles and responsibilities of those for whom it is intended. There are other documents which provide more detail and helpful guidance that should be read in conjunction with this Code and these are listed below:-

Responsibility for Functions (Scheme of Delegation - Constitution Part 3)
Financial Regulations (Constitution Part 4)
Contract Rules (Constitution Part 4)
Officer Employment Procedure Rules (Constitution Part 4)
Protocol on Councillor/Officer Relations (Constitution Part 5)
Data Protection Policy (GlosNet GDPR)
Information Security Policy and Procedures (GlosNet GDPR)
Anti-Fraud and Corruption Policy Statement (GlosNet Policies and Procedures)
Ordering Goods and Paying For Them (GlosNet Procurement)
Agile Working Policy (GlosNet HR)
Disciplinary Policy (GlosNet HR)
Fairness, Diversity and Equality at Work Policies (GlosNet HR)
Gifts and Hospitality Guidance (GlosNet HR)
Safety Health and Well-being (GlosNet HR)
Whistleblowing Policy (Glosnet HR)
Code of Practice for Planning
Code of Practice for Licencing
IT Policies

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## PROTOCOL ON COUNCILLOR/EMPLOYEE RELATIONS

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Gloucester City Council (“the Council”) adopted this protocol on xxxx to come into force on xxxx. The protocol forms part of the local framework for standards of behaviour approved by the Audit and Governance Committee. Monitoring of compliance with this protocol is the responsibility of the Audit and Governance Committee, the Monitoring Officer and the Head of Paid Service.

### 1. Introduction

1.1 Essential to the successful working of the City Council is a relationship between Councillors and Employees of the Council which is characterised by partnership working, mutual respect, openness, honesty and trust. The purpose of this protocol is to provide guidance to Councillors and Employees on their respective roles and responsibilities and on their relationship with each other.

1.2 Guiding all aspects of relationship between Councillors and Employees are the following principles, some of which are enshrined in law:-

- **selflessness** - serving only the public interest
- **honesty and integrity** - not allowing these to be questioned; not behaving improperly
- **objectivity** - taking decisions on merit
- **accountability** - to the public; being open to scrutiny
- **openness** - giving reasons for decisions
- **personal judgement** - reaching one’s own conclusions and acting accordingly
- **respect for others** - promoting equality; avoiding discrimination; respecting others (Councillor/Councillor, as well as Councillor/Employee)
- **duty to uphold the law** - not acting unlawfully
- **stewardship** - ensuring the prudent use of the Council’s resources
- **leadership** - acting in a way which has public confidence

### 2. The Roles of Councillors and Employees

2.1 Councillors are accountable to the electorate and serve as long as their term of office lasts. Employees are responsible to the Council as a whole and carry out the Council’s work under the direction of the Council, Executive and Committees. The roles are different but complimentary.

2.2 **Councillors** are responsible for:

- a) political leadership;

- b) initiating and determining the policy of the Council, determining the core values of the Council and approving the Council's policy framework, strategic plans and budget;
  - c) advocating for their constituents;
  - d) accounting for the delivery of Council services;
  - e) scrutinising Council services;
  - f) promoting partnership working;
  - g) representing the Council on local, regional and national bodies
  - h) respecting the impartiality of the Council's employees.
- 2.3 Councillors should not involve themselves in the day-to-day management of Council services or issue orders or directions to employees.
- 2.4 Cabinet Members, Chairs and Vice Chairs have additional responsibilities which make the relationship with employees more complex. In these circumstances extra care should be taken to respect the impartiality of employees and Councillors must not ask employees to engage in work of a party political nature or compromise their position with other Councillors, political groups or other employees.
- 2.5 Cabinet Members can have individual executive decision-making powers. They may determine matters within their portfolio, but implementation of their decisions is the responsibility of employees of the Council.
- 2.6 **Employees** are responsible for:
- a) providing professional advice and information to Councillors in developing and implementing policy and in decision-making;
  - b) implementing the decisions of Councillors;
  - c) managing the day-to-day administration of the Council;
  - d) taking managerial and operational decisions within the Council's Scheme of Delegation;
  - e) providing information to and consulting with local people about Council services
  - f) remaining impartial at all times.
- 2.7 The Head of Paid Service, Monitoring Officer and Chief Financial Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the Council and its Councillors, and they must be allowed the time, authority and resources to discharge those responsibilities.
- 2.8 When employees prepare reports for Councillor decision, they have a duty to give advice in accordance with their professional expertise and in accordance with professional codes of conduct, ethical guidelines and the law. In some situations, employees will be under a duty to submit a report on a matter or in a particular way. Employees should have their professional integrity and impartiality respected and should not to be influenced or required to restrict

options, withhold information or make recommendations to the Cabinet or a Committee which they cannot support professionally.

### **3. Working Relationships – reciprocal expectations**

#### 3.1 Councillors should expect the following from council employees

- a) a commitment to the Council as a whole and not to any political group;
- b) honesty, openness, trust and respect;
- c) performance of their duties effectively and efficiently;
- d) a working partnership which understands the respective roles;
- e) timely responses to enquiries and complaints;
- f) impartial professional advice;
- g) regular and up to date information on matters which are appropriate and relevant to their needs;
- h) awareness of and sensitivity to the political environment and its pressures;
- i) courtesy and appropriate confidentiality;
- j) training and development in order to carry out their role effectively;
- k) relationships with Councillors that will not be used by employees to advance their personal interests or influence decisions improperly;
- l) compliance with the Officer Code of Conduct and this Protocol;
- m) support for the role of Councillors as the local representatives of the authority, within any scheme for Councillor support approved by the authority.

#### 3.2 Employees should expect the following from Councillors:

- a) a working partnership which understands the respective roles;
- b) honesty, openness, trust and respect;
- c) clear political leadership and direction;
- d) courtesy and appropriate confidentiality;
- e) no bullying or undue pressure;
- f) relationships with employees that will not be used by Councillors to advance their personal or political interests or to influence decisions improperly;
- g) compliance with the Councillor Code of Conduct and this Protocol;
- h) to inform the Monitoring Officer of any relationships which might be seen as unduly influencing their work and role.

3.2 Close personal familiarity between Councillors and employees can be misinterpreted and prove embarrassing to other Councillors, employees or others. Care should be taken to avoid inappropriate close personal familiarity.

3.3 Councillors must be mindful that employees cannot respond to criticism in the same way that other Councillors can, and they should temper their remarks accordingly. This is particularly important when Councillors are dealing with less senior staff.

3.4 Councillors should bear in mind that unless there is an on-going relationship with a particular member of staff in relation to casework or an application they are dealing with, Councillors are expected to deal in the first instance with the Head of Paid Service, Corporate Directors and Heads of Service. This is because:-

- a) they are in a better position to provide authoritative information or advice;
- b) they need to be aware of any questions or complaints raised by Councillors;
- c) they can respond to Councillors' requests, for example, by making a judgement as to whether action may be taken under officers' delegated authority;
- d) they are in a better position to consider the resource demands of the issue and address or manage the Councillor's expectations;
- e) they can investigate and deal with any shortcomings there might be at the point of service delivery; and
- f) it avoids the possibility that employees below the Heads of Service may be 'intimidated' or even 'bullied' by over-enthusiastic Members.

#### **4. Meetings**

4.1 Councillors and employees will frequently encounter each other at meetings held to conduct Council business. The following basic rule will apply in all situations.

4.2 At all times Councillors and employees will show respect to one another. Although Councillors are entitled to question officers at meetings, they must avoid personal attacks and ensure that criticism is constructive and well founded. Employees will expect to have the opportunity to respond appropriately.

4.3 Whenever a formal public meeting is organised to consider a local issue, all the Councillors representing the ward(s) affected should be invited to attend the meeting. When the Council undertakes any form of consultative exercise on a local issue, the Ward Councillors should always be notified at the outset of the exercise and be provided with relevant information in a timely manner.

#### **5. Working with Political Groups**

5.1 Political groups have an important role to play in the development of policy and the political management of the authority. Whilst the operation of the political groups must be supported by the Council, it is important that employees remain politically neutral, and avoid being identified with any political group.

5.2 Employees will give professional advice and information to any Councillor or group of Councillors upon request and to the best of their ability. But it must be remembered that there will be occasions when information cannot be shared or



provided. Where this occurs Councillors should receive a clear explanation of the reasons.

- 5.3 If the resource implications of providing information are considerable, the Head of Paid Service will those concerns with the leaders of the political groups and agree what information can be provided.
- 5.4 Professional advice and analysis will be made available to opposition party groups, for example in relation to preparation of amendments to the budget prior to the annual budget meeting of the Council. Where an opposition party requests significant work by officers that is likely to disrupt other planned work, the Head of Paid Service will be advised and will decide what employee resources can be committed.

## **6. Correspondence**

- 6.1 Correspondence (including emails) between Councillors and employees shall not normally be copied by the employee to any other Councillor without the permission of the Councillor in correspondence. However, where correspondence concerns Council policy or, the interpretation of Council policy, a copy may be sent to the relevant Cabinet Member or Chair of Committee and the Councillor in correspondence should be made aware.
- 6.2 Councillors should consider and limit the number of employees and third parties copied into correspondence (including emails). Inappropriately broad circulation of correspondence can lead to a wasteful duplication of effort and increases the risk of a breach of data security or confidentiality.
- 6.3 Under no circumstances should 'silent copies' be made available to any third party, and copies should only be sent to third parties with the express permission of the Councillor in correspondence.
- 6.4 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer of the Council, rather than in the name of a Councillor. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Councillor, but this should be the exception rather than the norm. Letters which, for example, create obligations or given instructions on behalf of the Council should never be sent out in the name of a Councillor.

## **7. Reports to Political Groups**

- 7.1 Political groups may request the Head of Paid Service or a Corporate Director to prepare written reports on matters relating to the Council for consideration by the group.

- 7.2 Such reports will be factual and may identify and assess the options, they will not deal with any political implications arising from the subject matter and recommendations will not be made to the political group.
- 7.3 Where a report is prepared for a political group, the Head of Paid Service will advise all other groups that the report has been prepared and will provide a copy to any group on request.

## **8. Reports to Cabinet and Individual Cabinet Members**

- 8.1 Cabinet and individual Cabinet Members will take decisions in accordance with the Constitution (Part 4, Cabinet Procedure Rules).
- 8.2 Individual Cabinet Members, the Head of Paid Service, Corporate Directors, Heads of Service, the Monitoring Officer and the Chief Financial officer shall have the right to submit reports to the Cabinet for consideration.
- 8.3 Reports must have regard to:
- a) the requirements of the Cabinet Procedure Rules (as incorporated in the Constitution);
  - b) the requirements of the Access to Information Procedure Rules (as incorporated in the Constitution);
  - c) the budget and policy framework (as incorporated in the Constitution)
  - d) the Council Scheme of Delegation (as incorporated in the Constitution)
  - e) any legal requirement for a report to be in the name of an officer of the Council, otherwise once a report has been through the Cabinet Briefing Process, the report shall be presented in the name of the appropriate Cabinet Member.
  - f) Where the employee report author has given different advice or made different recommendations this shall be reflected in the report.

## **9. Officer Attendance**

- 9.1 Any political group may request the Head of Paid Service or a Corporate Director to attend a meeting of the group to advise on any matter relating to the Council.
- 9.2 The Head of Paid Service or Corporate Director may arrange for the attendance of a representative in her or his stead, or may decline to attend or provide representation where s/he believes that the particular issue is of such a political nature that it would be inappropriate to attend.
- 9.3 Any advice or information provided at or as a consequence of the meeting will be factual and may identify and assess options, it will not deal with any political implications arising from the advice and recommendations will not be made to the political group.

- 9.4 Where an employee attends a political group meeting, the Head of Paid Service will advise all other groups that the employee has attended and the subject.
- 9.5 Employees attending a political group meeting will respect the confidentiality of any matter that they hear in the course of attending the meeting.

## **10. Councillors' Access to Information and Council Documents**

- 10.1 Access to accurate and up-to-date information and professional advice is vital to enable Councillors to fulfil their elected role effectively. However, access to information and protection of individual and community rights is an increasingly sensitive area, and there is a great deal of legal regulation, both common law and statutory, which governs the rights and restrictions relating to Councillors' access to Council-held information.
- 10.2 Councillors have a right to approach the Managing Director, Corporate Directors or Heads of Service to ask for information or seek advice. This right extends only to information, explanation and such advice as they may reasonably need in order to assist them in discharging their role as a Councillor.
- 10.3 The legal rights of Councillors to inspect Council documents are covered partly by statute and partly by common law.
- 10.4 Councillors have a statutory right to inspect any Council documents which contain material relating to any business which is to be transacted at a Council, Cabinet, committee or sub-committee meeting. Such right applies irrespective of whether the Councillor is a member of the body concerned and applies not only to reports which are to be submitted to the meeting in question, but also to any relevant background papers. This statutory right does not, however, apply to documents relating to items which appear within the confidential or exempt part of any agenda for a meeting.
- 10.5 There is no 'roving commission' for a Councillor to examine books and documents and the common law right of Councillors is based on the principle that Councillors have a prima facie right to inspect Council documents so far as access to the document in question is reasonably necessary to enable the Councillor to perform his/her duties. This is commonly known as "the need to know" principle.
- 10.6 To exercise the common law right, Councillors must, therefore, demonstrate a need to know taking into account the requirements of the Data Protection Act 2018 (and related legislation) and the Human Rights Act 1998. In matters of concern on this issue, it is for the employee responsible for holding the information to determine whether an individual Councillor has a need to know, and they or the Councillor requesting the information should seek advice from the Monitoring Officer in particular cases of difficulty.

10.7 Where a Councillor requests to see documents containing confidential information, the Councillor will be required to justify the request in specific terms. Certain documents will not be available to Councillors. These documents may contain information which is covered by statute or may be documents containing sensitive material, the release of which might be prejudicial to the Council's interests.

10.8 Any Council information provided to a Councillor must only be used by the Councillor for the purpose for which it was provided (i.e. in connection with the proper performance of the Councillors' duties) and is subject to the obligations in the Councillor Code of Conduct.

## **11. Working with Overview and Scrutiny**

11.1 The Overview and Scrutiny Committee can require Cabinet Members and senior officers to appear before the Committee and answer questions, but arrangements may be made, if appropriate, for other Councillors or employees to attend to assist the Committee with its work.

11.2 Council has agreed that there will be no formal separation of employee support between the Executive and Scrutiny functions. The Head of Paid Service has overall responsibility for ensuring that staffing support for the Overview and Scrutiny function is appropriate and the Overview and Scrutiny Committee shall take into consideration any resource issues when determining its Work Programme. Any conflicts of interest which may arise in having to serve both Executive and Scrutiny should be raised with the Head of Paid Service.

## **12. Officer Appointments**

12.1 The appointment of the Head of Paid Service (Managing Director), Monitoring Officer and Chief Financial Officer (section 151 Officer) shall be made by Council.

12.2 The appointments of Corporate Directors shall be made by the Senior Appointments Committee.

12.3 The appointment of all the other employees of the Council shall be made by the Managing and Corporate Directors or staff authorised by the Council's scheme of delegation to make appointments

12.4 Specific provisions apply in relation to disciplinary action against the three Statutory officers (Head of Paid Service, Monitoring Officer, Chief Finance Officer) (see Officer Employment Procedure Rules in Part 5 of the Constitution).

12.5 All other staffing matters (including discipline, training, setting and monitoring performance) are the responsibility of the relevant managers, though the relevant Cabinet Member may stipulate performance targets in the case of the

Managing Director, Corporate Directors, Heads of Service and Service Managers.

12.6 Councillors wishing to comment on an individual employee's performance shall raise the matter with Head of Paid Service in the case of a Corporate Director, the relevant Corporate Director in the case of a Head of Service or Manager and the relevant Head of Service or Manager in the case of other members of staff.

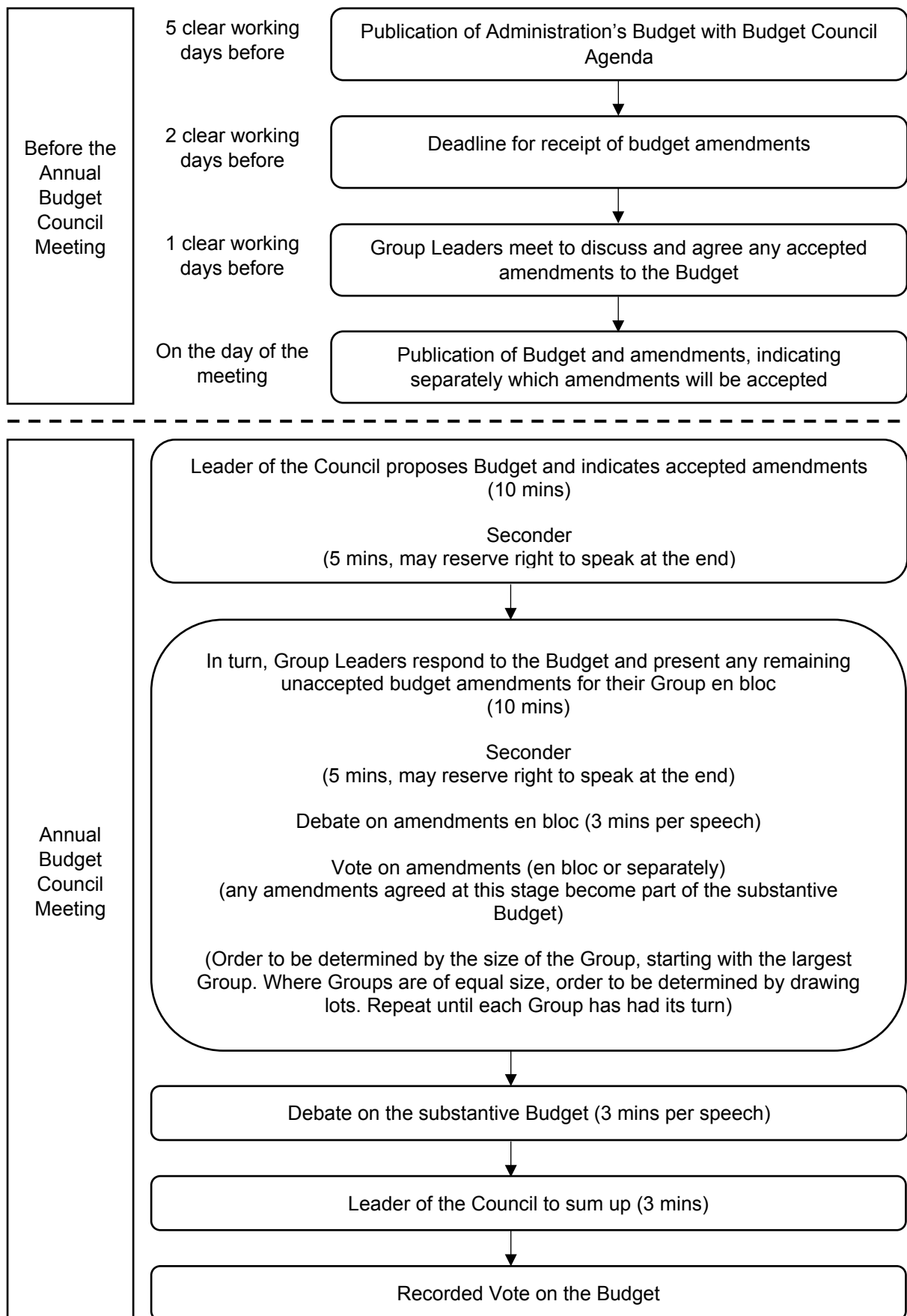
### **13. Compliance with this Protocol**

13.1 Concerns about a failure to comply with this Protocol should be raised in the first instance with the Head of Paid Service or the Monitoring Officer.

13.2 Any breach of this protocol by a Councillor may result in a breach of the Councillor Code of Conduct and the arrangements established by the Council to deal with such breaches will apply.

13.3 Any breach of this protocol by an employee of the Council may be a disciplinary matter and the Council's disciplinary procedures will apply.

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