

## Article 4 – The Full Council

### 4.01 Definitions

(a) **Policy Framework**

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

- Plans and Strategies
- Council's Corporate Plan
- Best Value Performance Plan
- Sustainable Community Strategy
- Crime and Disorder Reduction Strategy
- Development Plan Documents
- Housing Strategy(ies)
- Housing Investment Programme
- Climate Change Policy
- Licensing Policy Statement
- Gambling Policy – Statement of Principles
- Sex Establishment Licensing Policy
- Cultural Strategy
- Airport Strategy (except Airport shareholder functions delegated to the Leader)
- Joint Waste Strategy

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

(b) **Budget**

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

(c) **Housing Land Transfer**

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

### 4.02 Functions of the Full Council

Only the Council shall exercise the following functions:

- (a) adopting and approving changes to Parts 1 – 4 inclusive of the Constitution;

- (b) approving adopting or making changes that are likely to have a substantial impact or effect on the Policy Framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of a Leader or Cabinet function which is covered by the Policy Framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing and removing the Leader of the Council;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is a Leader or Cabinet function or has been delegated by the Council;
- (g) agreeing a Code of Conduct for Members;
- (h) adopting an allowances scheme under Article 2.05 (see also Part 6 of this Constitution);
- (i) changing the name of the area;
- (j) conferring the Freedom of the City;
- (k) confirming the appointment or dismissal of the Head of Paid Service;
- (l) confirming the dismissal of the Chief Finance Officer or the Monitoring Officer;**
- ~~(m)~~(m) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or private Bills;
- ~~(n)~~(n) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- ~~(o)~~(o) all other matters which by law must be reserved to Council.

#### **4.03 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.

#### **4.04 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.

## **Scheme of Management - Responsibility for Council and Executive Functions**

### **Introduction**

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

Functions fall into three categories:

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

### **1. Council Functions**

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

#### **Policy Framework**

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

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

- (1) Virements from the Council's approved Annual Revenue and Capital Budgets in excess of £100,000
- (2) Approval and allocation of the Council's annual borrowing limit
- (3) Approval of Treasury Management Strategies and Policies
- (4) The appointment of review boards under regulations made pursuant to Section 34(4) of the Social Security Act 1998
- (5) The duty to appoint an Electoral Registration Officer
- (6) The duty to appoint a Returning Officer for local government elections
- (7) The power to make temporary appointments to Parish Councils.
- (8) The power to submit proposals to the Secretary of State for an Order under Section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.
- (9) The power to make Standing Orders with regards to contracts.
- (10) The power to appoint [or dismiss](#) the Head of Paid Service.
- (11) The power to dismiss the Chief Finance Officer or Monitoring Officer;**
- ~~(11)~~(12) Any decision as to whether a casino is located in Gloucester
- ~~(12)~~(13) Any resolution for whole Council elections
- ~~(13)~~(14) Any change in the name of electoral areas
- ~~(14)~~(15) Those functions appearing in Schedule 4 to the Functions Regulations save to the extent as determined by the Council or as provided elsewhere in this Scheme of Delegation.

# OFFICER EMPLOYMENT PROCEDURE RULES

(Revised 2015)

**Comment [s1]:** Revision following the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, which change local authorities' procedures for removing a senior officer.

## 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, ~~Corporate Directors~~ Chief Officers and Statutory Officers

Where the Council proposes to appoint a ~~(Head of Paid Service)~~, Chief Officer or other Statutory Officers, 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.

(e) 'Chief Officer', and 'Head of Paid Service' shall have the same meaning as in Section 2 of the Local Government and Housing Act 1989.

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## 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 a Panel of Council Members. That Panel must include at least one Member of the Executive and will be drawn from the Organisational Development Committee.

## 4. Appointment of ~~Corporate Directors~~ Chief Officers and Statutory Officers

- (a) The Organisation~~al~~ Development Committee of the Council will appoint ~~Corporate Directors~~**Chief Officers** and Statutory ~~Officers~~. This Committee must include at least one Member of the Cabinet.
- (b) An offer of employment as a ~~Corporate Director~~ **Chief Officer** or Statutory Officer shall only be made where no well-founded objection from any Cabinet Member has been received.

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## 5. Other Appointments

- (a) **Officers below ~~Corporate Director~~ Chief Officer level.** Appointment of officers below ~~Corporate Director~~ **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.

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## 6. Disciplinary Action

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer ~~and or~~ Chief Finance 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) ~~Independent person.~~ No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person (Regulation 7 — The Local Authorities (Standing Orders) (England) Regulations 2001).
- (eb) Councillors will not be involved in the disciplinary action against any officer below ~~Director~~ **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.

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## 7. Dismissal

~~(a) In this paragraph~~

- i. 'the 2011 Act' means the Localism Act 2011;
- ii. 'Chief Finance officer', 'disciplinary action', 'Head of the authority's Paid Service' and 'Monitoring Officer' have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- 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 Chief Finance 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;
  - 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 ~~Corporate Director~~ Chief Officer 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.

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