



GUILDFORD  
B O R O U G H

# Constitution

Guildford Borough Council

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As at January 2024

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## INTRODUCTION

The Borough of Guildford covers an area of some 27,100 hectares and has a population of over 143,000.

Guildford Borough Council was established in 1974 and provides many statutory services, either directly or in partnership with other agencies, to the residents and businesses of, and visitors to, the Borough. It also provides many other discretionary services, such as sports and leisure facilities, car parks and support for many local organisations.

Forty-eight councillors are elected to the Council and approximately 620 staff are employed to ensure its aim of maintaining, and where possible improving, the quality of life of all sectors of the community.

The main objectives and aims of the Council are set out in its Corporate Plan. The Council's Strategic Framework including our Vision, Mission, Values, and Strategic Priorities are shown on the following page.

This document is the Constitution of the Council. It sets out the roles, responsibilities and rules of the Borough Council. We hope that it will help you to understand how your Council makes decisions and who is responsible for them.

If you have any questions about this document or the work of the Council, please contact the Democratic Services and Elections Manager.

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# THE COUNCIL'S STRATEGIC FRAMEWORK

## THE COUNCIL'S STRATEGIC FRAMEWORK (2021- 2025)

### **Our Vision:**

A green, thriving town and villages where people have the homes they need, access to quality employment, with strong and safe communities that come together to support those needing help.

### **Our Mission:**

A trusted, efficient, innovative, and transparent Council that listens and responds quickly to the needs of our community.

### **Our Values:**

- We will put the interests of our community first.
- We will listen to the views of residents and be open and accountable in our decision-making.
- We will deliver excellent customer service.
- We will spend money carefully and deliver good value for money services.
- We will put the environment at the heart of our actions and decisions to deliver on our commitment to the climate change emergency.
- We will support the most vulnerable members of our community as we believe that every person matters.
- We will support our local economy.
- We will work constructively with other councils, partners, businesses, and communities to achieve the best outcomes for all.
- We will ensure that our councillors and staff uphold the highest standards of conduct.

### **Our strategic priorities:**

#### Homes and Jobs

- Revive Guildford town centre to unlock its full potential
- Provide and facilitate housing that people can afford
- Create employment opportunities through regeneration
- Support high quality development of strategic sites
- Support our business community and attract new inward investment
- Maximise opportunities for digital infrastructure improvements and smart places technology

#### Environment

- Provide leadership in our own operations by reducing carbon emissions, energy consumption and waste
- Engage with residents and businesses to encourage them to act in more environmentally sustainable ways through their waste, travel, and energy choices
- Work with partners to make travel more sustainable and reduce congestion
- Make every effort to protect and enhance our biodiversity and natural environment.

#### Community

- Tackling inequality in our communities
- Work with communities to support those in need
- Support the unemployed back into the workplace and facilitate opportunities for residents to enhance their skills
- Prevent homelessness and rough-sleeping in the borough





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AN ALTERNATIVE FORMAT**

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GUILDFORD  
B O R O U G H

## **PART 1**

# **SUMMARY AND EXPLANATION**



## CONSTITUTION

### Summary and Explanation

#### **The Council's Constitution**

This Constitution sets out how the Council operates, how decisions are made and the procedures followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, whilst others are a matter for the Council to choose. A copy of the Constitution is on the Council's website and a paper copy can be inspected in the Council's main Reception. This summary is a guide to how the Council and its meetings work.

#### **How the Council Operates**

The Council comprises 48 councillors elected every four years. Each of the 21 wards of the Borough is represented by one, two or three councillors. Councillors are democratically accountable to residents of their ward to whom they have a special duty, including those who did not vote for them. However, the overriding duty of councillors is to the whole community.

Councillors observe a code of conduct to ensure high standards in the way they undertake their duties. The Council's adopted code of conduct is set out in Part 5 of this Constitution. The Corporate Governance and Standards Committee, under the guidance of the Council's Monitoring Officer, is responsible for giving advice and training to councillors on matters relating to the code of conduct. If a Member of the public or another Councillor considers a councillor has acted inappropriately and in breach of the Code of Conduct, then they can make a complaint to the Monitoring Officer who will determine whether it merits formal investigation. The procedure for this is set out in Part 5.

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

The Council has a Leader and Executive model of governance. This means the Council elects a leader every four years. He or she then appoints up to nine other Councillors to form the Executive, one of whom will be the Deputy Leader. The Leader and Deputy Leader will act as Chairman and Vice-Chairman respectively of the Executive. As a balance the Council's Overview and Scrutiny Committee holds the Executive to account. In addition, the Executive Advisory Boards consider and (where necessary) make recommendations on certain "Key" and significant decisions prior to the Executive making such decisions, as well as assisting the Executive in the development of policy.

Councillors also make some decisions in relation to Regulatory functions, for example determination of planning applications and licensing matters. The Council appoints committees of councillors to make decisions on these matters. The meetings of these committees are normally held in public.

Public notice of all meetings is given on the Council's website and also on the notice board at the Council's main Reception.

The Council also routinely webcasts meetings of the full Council, the Executive and other committees.

### **How Decisions are Made**

The Leader of the Council (the Leader) is responsible for most day-to-day decisions. These decisions can lawfully be delegated to the Executive, committees of the Executive, joint committees of other authorities, individual lead councillors on the Executive, individual local ward councillors, or officers.

When major decisions are to be discussed or made, these are published in the Council's forward plan in so far as they can be anticipated. They may also be considered by one of the Executive Advisory Boards. If these major decisions are to be made at a meeting of the Executive, this will be open for the public to attend except where personal or confidential matters are being discussed. Decisions have to be made in accordance with the Council's overall policies and budget and may be informed by recommendations from the Overview and Scrutiny Committee and Executive Advisory Boards. If a decision which is outside the budget or policy framework is required, this must be referred to the Council as a whole to decide.

### **How Council Meetings Work**

Meetings of the full Council, which are chaired by the Mayor, are more formal than Executive and committee meetings. Decisions are taken following a debate by councillors in which motions setting out recommended action are discussed. Amendments to these motions may also be discussed as part of the debate. A flow chart showing how the full Council deals with motions and amendments during debates is set out in the Appendix to this part of the Constitution.

### **Overview and Scrutiny Committee**

The Overview and Scrutiny Committee supports the work of the Leader/Executive and the Council as a whole. The committee allows residents to have a greater say in Council matters by investigating matters of local concern. It leads to reports and recommendations which advise the Leader/Executive and the Council on its policies, budget and service delivery.

The Committee also monitors the decisions taken by the Leader/Executive. The Committee can 'call-in' a decision which has been made by the Leader/Executive, but not yet implemented. This enables it to consider, for example, whether the decision is consistent with the budget and policy framework and it may recommend that the Leader/Executive reconsiders the decision. Councillors have up to five working days after a decision has been made to call it in. In these circumstances, decisions cannot be implemented until any issues have been considered by the Committee. The Committee may also be consulted by the Leader/Executive or the Council on forthcoming decisions and the development of policy.

### **Executive Advisory Boards**

The Council has two Executive Advisory Boards, which consider and (where necessary) make recommendations on certain "Key" and significant decisions prior to such decisions being made by the Executive. They also assist the Executive with policy making and budget preparation. Unless the context otherwise requires, the expression "committee" in this Constitution shall also include Executive Advisory Boards.

### **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 governs the relationships between officers and councillors (see Part 5 of this Constitution).

### **The Public's Rights**

The public 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. The local Citizens Advice can advise on individuals' legal rights.

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.

The public have the right to:

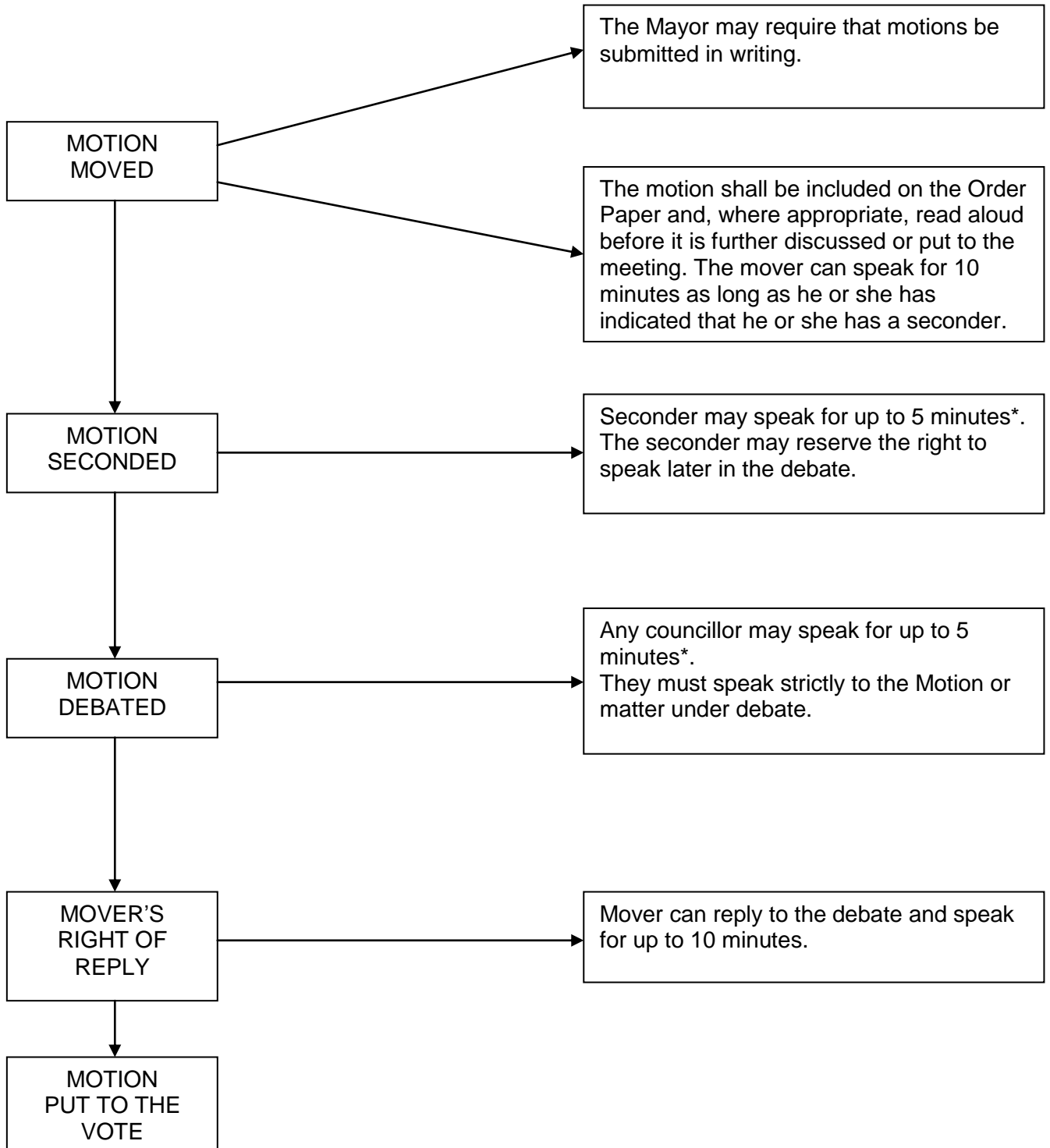
- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution, which can be viewed on the Council's website;
- attend meetings of the Council and its Executive and committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- present petitions to the Council in accordance with the adopted Petition Scheme set out in Part 4 of this Constitution
- ask questions or address meetings of the Council, Executive and committees;
- find out from the Forward Plan what major decisions are to be discussed and decided by the Leader/Executive and when;
- see reports and background papers and any record of decisions made by the Council, the Leader, lead councillors, the Executive and committees in relation to matters considered in public;
- complain to the Council about any aspect of its 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 procedure;
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Councillors' Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor during the 20 working days statutory period prior to the external auditor giving their opinion.

The Council welcomes participation by the public in its work and strives to be transparent and open in all its work. For further information on your rights, please contact John Armstrong, Democratic Services and Elections Manager, on 01483 444102 or e-mail [john.armstrong@guildford.gov.uk](mailto:john.armstrong@guildford.gov.uk).



RULES OF DEBATE - MOTIONS

Appendix



**GLOSSARY:**

**Motion:** a proposed form of action for the Council to take

**Mover:** a councillor who proposes a motion

**Second:** to formally support a motion so that it may be debated and put to the vote

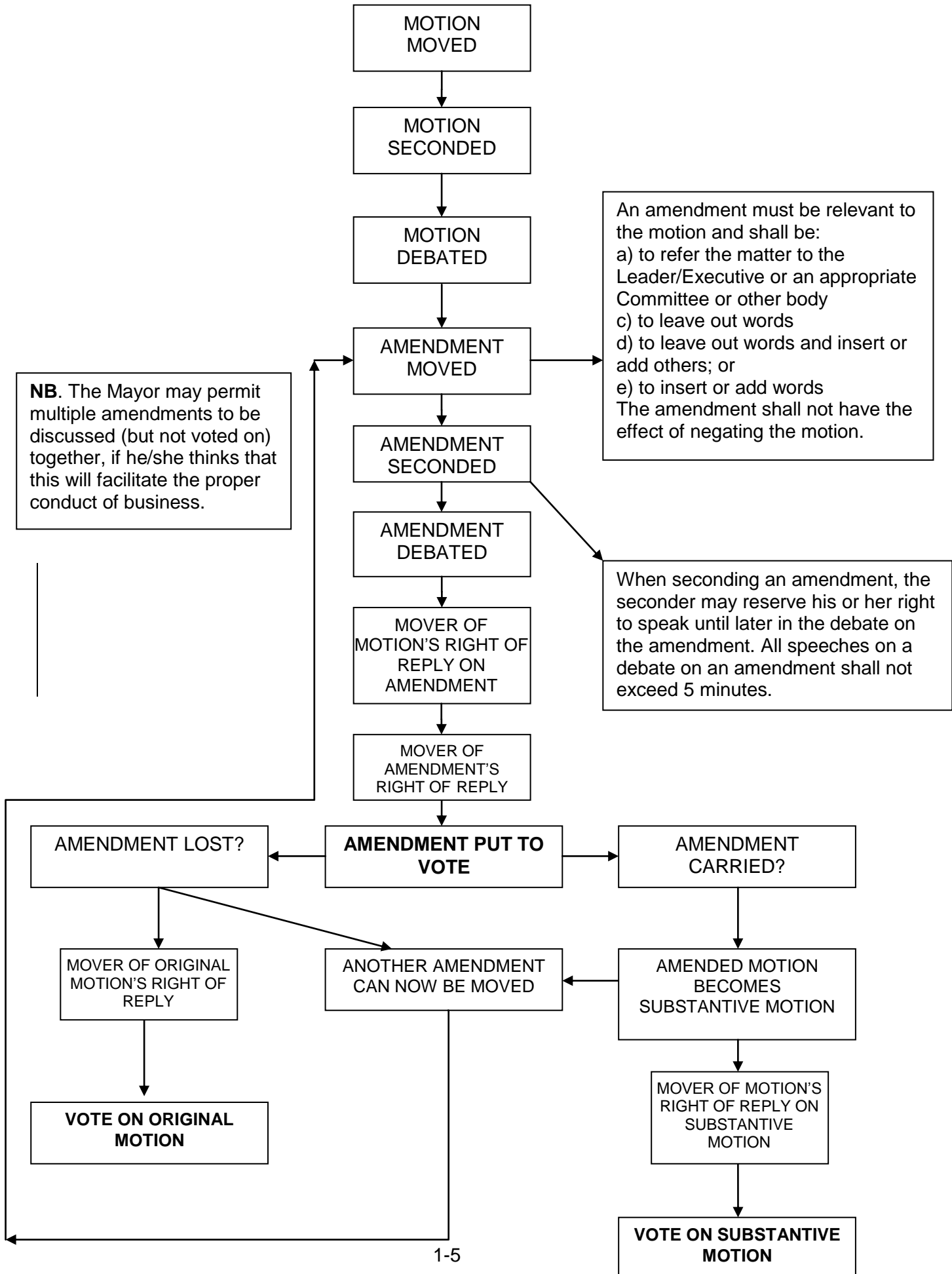
**Secunder:** a councillor who formally seconds a motion

**Amendment:** a proposed alteration to a motion

**Substantive motion:** the motion that is debated after an amendment is carried

\* Time limits may be extended with the consent of the Council which shall be given or refused without debate.

**RULES OF DEBATE – AMENDMENTS TO MOTIONS**





GUILDFORD  
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## **PART 2**

# **ARTICLES OF THE CONSTITUTION**

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 1 – THE CONSTITUTION

#### 1.1 **Powers of the Council**

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

#### 1.2 **The Constitution**

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

#### 1.3 **Purpose of the Constitution**

The purpose of the Constitution is to:-

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

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

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 16.

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 2 – COUNCILLORS

#### 2.1 **Composition and Eligibility**

(a) **Composition**

The Council comprises 48 councillors. One, two or three councillors will be elected by the voters of each of the 21 wards in the Borough in accordance with a scheme approved by the Secretary of State.

(b) **Eligibility**

The eligibility criteria for a person to be qualified to be elected and be a councillor are set out in Section 79 of the Local Government Act 1972.

#### 2.2 **Election and Terms of Councillors**

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

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

(a) **Key Roles**

All councillors will:-

- (i) collectively elect the Leader
- (ii) collectively be the ultimate policy makers being responsible for setting the budget and approving the statutory and strategic plans within the policy framework;
- (iii) represent their communities and bring their views into the Council's decision-making process (i.e. become the advocate of and for their communities);
- (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (v) balance different interests identified within the ward and represent the ward as a whole;
- (vi) be involved in decision-making;
- (vii) be available to represent the Council on other bodies; and
- (viii) maintain the highest standards of conduct and ethics.

**(b) Rights and Duties**

- (i) Councillors will 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 will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.

**2.4 Conduct**

Councillors will at all times observe the' Councillors' Code of Conduct and the Protocol on Councillor/Officer Relations set out in Part 5 of this Constitution.

**2.5 Allowances**

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

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 3 –THE PUBLIC AND THE COUNCIL

#### 3.1 **The Public's Rights**

The public's rights to information and to participate in the decision-making process are explained in more detail in the Access to Information Procedure Rules and Public Speaking Procedure Rules in Part 4 of this Constitution.

##### (a) **Petitions**

The Council is committed to responding to petitions. Anyone who lives, works or studies in the Borough may sign or organise a petition and trigger a response from the Council. Details of the Council's adopted (non statutory) petition scheme are set out as an appendix to the Public Speaking Procedure Rules in Part 4 of this Constitution.

People on the electoral register for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of constitution. Every year, the Council will publish details of the number of electors required to instigate such a referendum.

##### (b) **Information**

The public have the right to:-

- (i) attend meetings of the Council, Executive and committees except where confidential or exempt information is likely to be disclosed and the meeting is, therefore, held in private;
- (ii) find out from the Forward Plan what key decisions will be taken by the Leader, lead councillors or the Executive and when. The Forward Plan is no longer a statutory requirement but the Council has decided to retain it for effective operation of the Council's activities.
- (iii) see reports and background papers and any records of decisions made by the Council, Leader, lead councillors, Executive and committees except where confidential or exempt information is likely to be disclosed. However, in relation to the consideration in private of business containing exempt information, 28 days' advance notice is now given of the intention for any Executive meeting to consider such business in private; and
- (iv) inspect the Council's accounts and make their views known to the external auditor during the statutory period of 20 working days prior to the external auditor giving their opinion.

##### (c) **Participation**

The public have the right to present petitions in accordance with the petition scheme referred to above, ask questions or address meetings of the Council, Executive and committees and contribute to investigations by the Overview and Scrutiny Committee.

##### (d) **Complaints**

The public have the right to complain to:-

- (i) the Council itself under its complaints procedure;

- (ii) the Local Government Ombudsman after using the Council's own complaints procedure; and
- (iii) the Council's Monitoring Officer about an alleged breach of the Councillors' Code of Conduct which is set out in Part 5 of this Constitution.

3.2 **The Public's Responsibilities**

Members of the public must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers. The public are entitled to attend public meetings of the Council, Executive and committees, but must comply with the rulings of the chairman. They may not disrupt the meeting or cause undue disturbance or they may be removed from the meeting.



## GUILDFORD BOROUGH COUNCIL

### ARTICLE 4 – THE FULL COUNCIL

#### 4.1 Meanings

(a) **Policy Framework**

The policy framework means the following plans and strategies:

- The Corporate Plan
- Guildford Borough Economic Strategy
- Rural Economic Strategy
- Safer Guildford Partnership Plan
- Guildford Borough Development Plan Documents
- Housing Investment Programme and Strategy
- Statement of Licensing Policy
- Gambling Act 2005: Statement of Principles

(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, decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure, the setting of virement limits, prudential indicators and limits, treasury management strategy, treasury prudential indicators and investment strategy.

(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.

#### 4.2 Functions of the Full Council

The following functions must not be exercised by the Leader/Executive and, where not otherwise delegated, shall be reserved to the full Council:

- (1) to adopt, amend (apart from changes to Part 3 in relation to executive functions which will be discharged by the Leader/Executive and reported to Council) or, in accordance with the provisions of Article 17, suspend the Council's Constitution;
- (2) to make proposals and fulfil any duties to change the Council's executive arrangements, determine whether a referendum is required and pass a resolution to make any such change;
- (3) to approve the Council's budget, as defined in Article 4.1 (b) of the Constitution;
- (4) to approve, amend, revoke or replace any plan or strategy falling within the Council's policy framework (including any decision required for submission to the Secretary of State);

## PART 2 (ARTICLE 4) – THE FULL COUNCIL

- (5) to make decisions on all executive matters which are contrary to or not wholly in accordance with the budget and policy framework, except in cases of urgency or other circumstances defined in the Constitution;
- (6) to adopt, revise or replace the code of conduct for councillors and co-opted members and arrangements for dealing with allegations of misconduct;
- (7) to approve for public consultation in accordance with Part 6 of The Town and Country Planning (Local Planning) (England) Regulations 2012 any draft proposals relating to a development plan document;
- (8) to approve the making of an application to the Secretary of State for the transfer of housing land;
- (9) to make all necessary arrangements for the discharge of non-executive functions through joint arrangements, including the establishment of joint committees, area committees or delegation to another local authority;
- (10) to authorise the contracting out of non-executive functions to another body;
- (11) to accept any delegation of functions from another local authority (in relation to both executive and non-executive functions);
- (12) to make, amend, revoke, re-enact or enforce byelaws;
- (13) to promote or oppose local or personal bills;
- (14) to exercise the Council's functions relating to local government pensions;
- (15) to exercise the Council's functions in relation to elections and electoral registration;
- (16) to exercise the Council's functions in relation to community governance arrangements, including those relating to parishes and parish councils, and determine any matters relating to the name and status of areas;
- (17) to resolve not to issue casino premises licences;
- (18) to determine planning applications referred by the Planning Committee in accordance with Council Procedure Rule 26(c);
- (19) to elect the Mayor and appoint the Deputy Mayor;
- (20) to elect and remove the Leader of the Council;
- (21) with the exception of the Executive, to appoint and dissolve committees, determine or amend their terms of reference and alter their size;
- (22) with the exception of the Executive, to determine the allocation of seats on the Council's committees and to make appointments to them;
- (23) to authorise co-opted members to vote at meetings of the Overview and Scrutiny Committee in accordance with a scheme approved by the Council;
- (24) to appoint councillors to serve on outside organisations;

- (25) to determine matters relating to the failure of a councillor to attend meetings for a period of six months;
- (26) to confer the title of honorary freeman, honorary alderman and honorary officer;
- (27) to approve, amend, revoke or replace the Council's scheme for councillors' allowances and to determine the levels of all allowances payable to councillors;
- (28) to determine the amount of any allowance payable to the Mayor or Deputy Mayor;
- (29) to appoint and dismiss the Joint Chief Executive;
- (30) to designate officers as the Head of Paid Service, Monitoring Officer and Chief Finance Officer;
- (31) to appoint proper officers for particular purposes;
- (32) to determine the terms and conditions on which staff hold office, including procedures for their dismissal, unless otherwise delegated;
- (33) to exercise such local choice functions as may be set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than by the Leader/Executive; and
- (34) to determine policy in respect of the licensing of hackney carriages and private hire vehicles and review such policy upon the recommendation of the Licensing Committee.
- (35) to determine all other matters which, by law, must be reserved to the Council.

#### **4.3 Council Meetings**

There are three types of Council meeting:

- (a) the annual meeting (at which the Mayor is elected);
- (b) ordinary meetings (on dates agreed annually); and
- (c) extraordinary meetings (to deal with urgent or special business).

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

#### **4.4 Responsibility for Functions**

The Council will 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/Executive.

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 5 – CHAIRING THE COUNCIL

#### 5.1 **Role and Function of the Mayor**

The Mayor and Deputy Mayor will be elected by the Council annually.

The Mayor, and in his or her absence the Deputy Mayor, will have the following roles and functions:-

- (a) to uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which councillors who are not on the Executive or do not hold committee chairmanships are able to hold the Leader/Executive and committee chairmen to account;
- (d) to promote public involvement in the Council's activities; and
- (e) to attend such civic and ceremonial functions as the Council and he or she determines appropriate.

Neither the Mayor nor the Deputy Mayor shall be members of the Executive.

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 6 – THE LEADER OF THE COUNCIL

#### 6.1 **Role**

The Leader of the Council will be a councillor elected to the position of Leader by the full Council.

The term of office of the Leader shall be four years starting on the day of their election as Leader, which will take place at the first meeting of the Council immediately following the post-election annual meeting, and ending on the day of the next post-election annual meeting unless they:

- a) are removed from office by resolution of the Council (see paragraph 6.5 below); or
- b) are disqualified from being a councillor by order of a court under Section 34 of the Localism Act 2011; or
- c) resign as Leader; or
- d) cease to be a councillor;

before that day.

During their term of office as Leader, the Leader shall continue to hold office as a councillor and accordingly any enactment which provides for earlier retirement as a councillor does not apply.

If there is a vacancy in the position of Leader, the Leader will be elected at the first meeting of the Council following such vacancy for a term of office expiring on the day of the post election annual meeting which follows his/her election, subject to (a) to (d) above.

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, unless otherwise delegated by him/her. All delegations by the Leader will be set out in Part 3 of this Constitution.

["post-election annual meeting" means the first annual meeting of the Council to be held after ordinary Borough Council elections take place]

#### 6.2 **Functions of the Leader**

The Leader shall be responsible for maintaining a list (which the Democratic Services Manager will compile on the Leader's behalf) in Part 3 of this Constitution setting out who will exercise executive functions. Executive functions can be exercised by the Leader, the Executive, individual Executive members (known as lead councillors), committees of the Executive, individual local ward councillors, officers or jointly with other bodies under separate joint arrangements (see Article 12). Any changes to Part 3 of the Constitution in relation to executive functions will be reported to the next appropriate meeting of the full Council.

The Leader will be Chairman of the Executive.

## PART 2 (ARTICLE 6) – THE LEADER OF THE COUNCIL

Only the Leader will exercise the following functions:

- (a) appointment of between two and nine other councillors to the Executive (the lead councillors);
- (b) appointment of the Deputy Leader from among the lead councillors on the Executive; and
- (c) allocation of areas of responsibility (portfolios) to lead councillors.

The Leader may at any time:

- remove lead councillors from the Executive, or
- change lead councillors' areas of responsibility

The Leader shall report to the next appropriate meeting of the full Council on all appointments and changes to the Executive.

### 6.3 **Deputy Leader**

The Leader shall appoint one of the lead councillors to be the Deputy Leader. Subject to Article 6.4 below, the Deputy Leader shall normally hold office until the end of the Leader's term of office unless that person:

- a) is removed from office by decision of the Leader; or
- b) is disqualified from being a councillor by order of a court under Section 34 of the Localism Act 2011; or
- c) resigns as Deputy Leader; or
- d) ceases to be a councillor.

before that day.

In the event of any of the above occurring, the Leader shall appoint another lead councillor as Deputy Leader at the earliest opportunity.

### 6.4 **Role of the Deputy Leader**

The Deputy Leader will be Vice-Chairman of the Executive and if, for any reason, the Leader is unable to act, or the office of the Leader is vacant, the Deputy Leader must act in his/her place and shall be entitled to exercise all functions reserved to the Leader until such time as the Leader is able to act or until a new Leader is elected by the Council.

If for any reason the Leader is unable to act, or the office of the Leader is vacant, and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the remaining members of the Executive must either act collectively in the Leader's place or they must arrange for a lead councillor to act in the place of the Leader.

### 6.5 **Removal of Leader from office**

At any meeting of the full Council, a councillor may propose that "the Council has no confidence in the Leader". The question shall, after debate, be put

## PART 2 (ARTICLE 6) – THE LEADER OF THE COUNCIL

and, if carried by a simple majority of those councillors present, the Leader shall be removed from office.

If the Council passes a resolution to remove the Leader from office, a new Leader shall be elected –

- (a) at the meeting of the Council at which the Leader is removed from office, or
- (b) at a subsequent meeting of the Council.

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 7 – THE EXECUTIVE

#### 7.1 **Role**

The Executive will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution, as delegated by the Leader.

#### 7.2 **Form and Composition**

The Executive will consist of the Leader and Deputy Leader, who shall act as chairman and vice-chairman respectively, together with up to eight other councillors appointed to the Executive by the Leader, who shall be known as lead councillors.

#### 7.3 **Lead Councillors**

Lead councillors for specified areas of the Council's work will be councillors appointed to those positions by the Leader. Lead councillors shall hold office until the end of the term of office of the Leader unless they:

- (a) resign from office; or
- (b) are disqualified from being a councillor by order of a court under Section 34 of the Localism Act 2011; or
- (c) cease to be councillors; or
- (d) are removed from office, either individually or collectively, by decision of the Leader

before that date.

The Leader may at any time alter the responsibilities of a Lead councillor or discontinue their appointment and elect a replacement.

Lead councillors shall be entitled to be consulted by the Corporate Management Board and service leaders when exercising delegated powers requiring such consultation.

A lead councillor shall not be a member of the Overview and Scrutiny Committee.

#### 7.4 **Deputy Lead Councillors**

Other councillors may, from time to time, be designated by the Leader as Deputy Lead Councillors. A Deputy Lead Councillor shall not be a member of the Executive and will not participate in Executive decision-making but may work closely with a Lead Councillor(s). A Deputy Lead Councillor shall not be a member of the Overview and Scrutiny Committee.

Deputy Lead Councillors will not have delegated powers and will not be entitled to vote at Executive meetings. The Leader will advise the Democratic Services and Elections Manager in writing of the appointment of designated Deputy Lead Councillors and of the Lead Councillor(s) they will assist.



The Leader may, at any time, discontinue the appointment of a designated Deputy Lead Councillor. The Leader will report all appointments and discontinued appointments to the next meeting of the Council.

Key Duties and Responsibilities of Deputy Lead Councillors:

- (a) To assist, support, and advise the relevant Lead Councillor in carrying out their responsibilities.
- (b) To lead on specific policy areas at the request of the relevant Lead Councillor and/or Leader.
- (c) To carry out tasks as agreed on behalf of the relevant Lead Councillor.
- (d) To deputise for the relevant Lead Councillor at meetings, briefings, or external events as appropriate, including attendance at EAB meetings and, with the agreement of the chairman, Overview and Scrutiny Committee meetings as required, to answer questions or to speak on behalf of the Lead Councillor on matters relating to the relevant portfolio responsibilities.
- (e) To maintain awareness of policy developments, and advise the Lead Councillor of key developments.
- (f) To bring to the attention of the Lead Councillor issues of concern to non-Executive councillors.
- (g) To undertake research and any other tasks under the direction of the Lead Councillor.
- (h) To liaise with relevant officers to be up to date with service developments and ensure the Lead Councillor is informed of key issues, and to be consulted in the absence of the Lead Councillor where this is required under the Scheme of Delegation to Officers.

**7.5 Proceedings of the Executive**

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

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 8 – THE OVERVIEW AND SCRUTINY COMMITTEE

#### 8.1 Terms of Reference

The Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by Sections 21 and 21A of the Local Government Act 2000 or regulations made under Section 32 of the Local Government Act 2000. This Committee is also the Council's designated crime and disorder committee under Section 19 of the Police and Justice Act 2006.

The work of the Overview and Scrutiny Committee should focus on the Council's principles, practice, procedures and performance (rather than politics and personalities); the work will be informed by the following principles:

- (i) Constructive "critical friend" challenge
- (ii) Amplifies the voices and concerns of the Public
- (iii) Led by independent people who take responsibility for their role; and
- (iv) Drives improvement in public services

The provisions of this Constitution are subject always, and without prejudice, to Section 9F of the Local Government 2000.

The general terms of reference of the Overview and Scrutiny Committee are set out below:

- (a) to perform all overview and scrutiny functions on behalf of the Council;
- (b) to appoint such formal sub-committees and informal task and finish groups as it considers appropriate to fulfil those overview and scrutiny functions;
- (c) to approve the overview and scrutiny work programme so as to ensure that the Committee's time is effectively and efficiently utilised;
- (d) to undertake investigations into such matters relating to the Council's functions and powers as:
  - (i) may be referred by the Leader/Executive; or
  - (ii) the Committee may consider appropriate; or
  - (iii) have been referred to the Committee pursuant to the "call-in" procedure set out in the Overview and Scrutiny Procedure Rules in Part 4 of this Constitution;

(In respect of (iii) above, the Committee may review the decision or, if it so wishes, refer the matter to the full Council for review.)

- (e) to review and advise on all existing policies of the Council, including

## PART 2 (ARTICLE 8) – THE OVERVIEW AND SCRUTINY COMMITTEE

making recommendations for future options to the Leader/Executive;

- (f) to review arrangements to secure continuous improvement in the way in which the Council's functions are exercised, having regard to a combination of economy, efficiency and effectiveness;
- (g) to monitor and review the Council's performance against relevant national and local performance indicators and adopted plans and strategies;
- (h) to consider any matter affecting the area or its inhabitants;
- (i) to discuss initiatives put forward for consideration by individual members of the Committee
- (j) to deal with any relevant councillor call-for-action in accordance with the protocol attached as Appendix 1 to the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution; and
- (k) to consider petitions received under the adopted Petition Scheme that fall into the following categories:
  - petitions requiring a senior officer to give evidence to the Committee; and
  - a request from a petition organiser, who is not satisfied with the Council's response to a petition, for a review of the adequacy of the steps taken or proposed to be taken in response to the petition.

### 8.2 Specific Functions

#### (a) Policy Development and Review

The Overview and Scrutiny Committee may:

- (i) assist the Council and the Leader/Executive in the development of the budget and policy framework by in-depth analysis of policy issues; and the Overview and Scrutiny Committee may obtain evidence from members of the public or expert witnesses to inform its response
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) question the Leader, lead councillors, Joint Chief Executive and Joint Strategic Directors about their views on issues and proposals affecting the area; and
- (iv) liaise with, and scrutinise, other external organisations operating in the area, whether national, regional, or local, to ensure that the interests of local people are enhanced by collaborative working; any such organisation that is working in partnership with the Council will be expected to have regard to the reports and recommendations of the Committee

## PART 2 (ARTICLE 8) – THE OVERVIEW AND SCRUTINY COMMITTEE

### (b) **Scrutiny**

The Overview and Scrutiny Committee may:

- (i) review and scrutinise the performance of and the decisions made by the Leader, lead councillors individually or the Executive collectively and Council officers both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question the Leader, lead councillors, Joint Chief Executive and Joint Strategic Directors about their decisions and performance, whether generally in comparison with service plans and targets over a period of time; in relation to particular decisions, initiatives or projects; or in relation to the portfolios of the Leader or of Lead Councillors (or any parts thereof). As part of this process, the Committee may facilitate the asking of questions submitted in advance by members of the public;
- (iv) make recommendations as appropriate to the Leader/Executive and/or the Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Committee and local people about their activities and performance;
- (vi) question and gather evidence from any person (with their consent) and require information from partner organisations; and
- (vii) use innovative ways to scrutinise matters of concern such as select committees, public hearings, mystery shopping and workshops; the issue being investigated should be matched to the most appropriate process.

### (c) **Finance**

- (i) The Overview and Scrutiny Committee may exercise overall responsibility for the finances made available to them.
- (ii) The Committee may request that a budget be made available to it for the purposes of research, the costs of expert witnesses, site visits, non-meeting based activities and matters similar thereto.

### (d) **Annual Report**

The Overview and Scrutiny Committee must report annually to the full Council on its work undertaken during the year, its future work programme and amended working methods if appropriate.

## 8.3 **Proceedings of the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 9 – REGULATORY AND OTHER COMMITTEES

9.1 **Regulatory and Other Committees**

The Council will appoint the committees set out in Part 3 of this Constitution (Responsibility for Council Functions) to discharge the functions described.

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 10 – THE CORPORATE GOVERNANCE AND STANDARDS COMMITTEE

#### 10.1 Composition

(a) **Membership**

The Corporate Governance and Standards Committee will be composed of:

- seven councillors who may include one lead councillor except the lead councillor whose portfolio includes finance and resources. Neither the Leader nor Deputy Leader may be a member or substitute member of the Committee
- up to three co-opted persons who are not councillors or officers of the Council (independent members)
- up to three co-opted members of any parish council in the Council's area (parish members).

(b) **Chairman and Vice-Chairman**

The chairman and vice-chairman of the Committee shall be councillors. Where a lead councillor is appointed as a member of the Committee, they shall not be elected chairman or vice-chairman.

(c) **Voting Rights**

The co-opted independent members and parish members will not be entitled to vote at meetings of the Corporate Governance and Standards Committee or any of its Sub-Committees.

(d) **Independent Members**

Independent members shall be appointed by the Council for an initial term of office expiring in May 2015 and for a four-year term thereafter with serving independent members being eligible for re-appointment each time.

At the end of the term of office, the Council will invite applications from the general public via its website for appointment as co-opted independent members of the Corporate Governance and Standards Committee.

To be eligible for appointment candidates must not be engaged in party political activity, or have been at any time in the preceding five years, a councillor or officer of Guildford Borough Council or be a relative or close friend of a councillor or officer of the Council. Ideally candidates will have significant experience of working at a senior level in a large, complex organisation and have a very good understanding of strategic or financial management or have sat previously on an Audit Committee.

The Monitoring Officer shall short-list candidates and invite them for interview by a panel comprising the Chairman of the Corporate Governance and Standards Committee, the Monitoring Officer and Chief Finance Officer. The panel's recommendations as to appointment of co-opted independent members will be referred to full Council for approval.

## **PART 2 (ARTICLE 10) – THE CORPORATE GOVERNANCE AND STANDARDS COMMITTEE**

### **(e) Parish Members**

Parish members shall be appointed by the Council for an initial term of office expiring in May 2015 and for a four-year term thereafter with serving parish members being eligible for re-appointment each time.

At the end of the term of office, all parish councils shall be invited to nominate parish councillors as co-opted parish members on the Corporate Governance and Standards Committee. Where there are up to three nominations received, the Council shall consider their formal co-option as parish members on the Committee

Where there are more than three nominations received:

- (i) each of the candidates shall be invited to submit further information in support of their nomination, details of which will be sent to all parish councils in the Borough; and
- (ii) a ballot of parish councils shall be held and the results will be referred to the Council.

The results of the ballot shall inform the Council's decision as to the co-option of parish members.

At least one parish member must be present when misconduct complaints regarding members or co-opted members of parish councils are being considered.

### **10.2 Statement of Purpose**

The Committee has a dual purpose both as an audit committee and a standards committee.

The Committee is a key component of the authority's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

The purpose of the Committee is to provide independent assurance to councillors of the adequacy of the risk management framework and the internal control environment. It provides independent review of the authority's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

With regard to standards, the Committee promotes high standards of conduct by councillors and co-opted members and oversees the arrangements for dealing with allegations of misconduct.

### **10.3 Role and Function**

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

## **PART 2 (ARTICLE 10) – THE CORPORATE GOVERNANCE AND STANDARDS COMMITTEE**

### Audit and Accounts Activity

- (1) To consider reports on the summary of internal audit activity (actual and proposed) and the level of assurance that it can give over the Council's corporate governance arrangements and monitor the progress of high priority actions arising from audit recommendations.
- (2) To consider reports dealing with the management and performance of the providers of the internal and external audit functions.
- (3) To approve the Internal and External Audit Plans, and significant interim changes.
- (4) To consider the external auditor's annual letter (including their audit fee), relevant reports (both financial and strategic) and the report to those charged with governance.
- (5) To consider specific reports submitted by the internal or external auditors.
- (6) To comment on the scope and depth of internal and external audit work and ensuring that it gives value for money.
- (7) To review and approve the annual statement of accounts and Audit Findings Report with specific emphasis on whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- (8) To consider reports on the Capital and Investment Strategy prior to their referral to the Executive and Council.
- (9) To consider budget monitoring reports at least on a quarterly basis.

### Corporate Governance Activity

- (10) To monitor and review the operation of the Council's Constitution, particularly in respect of financial procedures and protocols, procurement procedures and guidelines and make recommendations, as appropriate, in respect of any proposed amendments to the Executive and Council.
- (11) To consider the Council's arrangements for corporate governance and to recommend such actions necessary to ensure compliance with best practice, together with any relevant corporate governance related issues referred to the Committee by the Joint Chief Executive, any Joint Strategic Director, the Leader/Executive or any other committee of the Council.
- (12) To monitor the effective development and operation of risk management undertaken throughout the Council including the review of the Corporate Risk Register.
- (13) To consider and approve the Council's Annual Governance Statement in advance of the formal approval of the Council's Statement of Accounts.
- (14) To consider an annual report of the operation of the whistle-blowing policy, including incidents reported.



## **PART 2 (ARTICLE 10) – THE CORPORATE GOVERNANCE AND STANDARDS COMMITTEE**

- (15) To monitor and audit the Council's equalities and diversity policies and approve the Equality Scheme and associated action plan.
- (16) To monitor bi-annually the Council's performance in dealing with Freedom of Information and Environmental Information Regulations requests.
- (17) To monitor the Council's progress on various data protection and information security initiatives.
- (18) To consider annual reports on the work of task groups appointed by the Committee, together with other matters submitted to the Committee periodically by those task groups
- (19) To consider bi-annually Planning Appeals Monitoring Reports and S106 Monitoring Reports.
- (20) To consider an annual report on the exercise of powers under the Regulation of Investigatory Powers Act 2000

### Ethical Standards Activity

- (21) To promote and maintain high standards of conduct by councillors and co-opted members.
- (22) To advise the Council on the adoption or revision of the Councillors' code of conduct.
- (23) To advise, train or arrange to train councillors and co-opted members on matters relating to the Councillors' code of conduct.
- (24) To agree arrangements for the selection and interviewing of candidates for appointment as Independent Persons (including such joint arrangements with other councils as may be deemed by the Monitoring Officer to be appropriate) and to make recommendations to full Council on these appointments.
- (25) To agree allowances and expenses for the Independent Persons.
- (26) To grant dispensations, after consultation with the independent person, to councillors and co-opted members with disclosable pecuniary interests.
- (27) To implement, monitor and review the operation of the code of conduct for staff and the Protocol on Councillor/ Officer Relations and to make recommendations as appropriate to Council in respect of any necessary amendments.
- (28) To consider the Monitoring Officer's Annual Report on misconduct complaints against councillors, and any other matter referred by the Monitoring Officer.

#### **10.4 Accountability arrangements**

To report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.

## **PART 2 (ARTICLE 10) – THE CORPORATE GOVERNANCE AND STANDARDS COMMITTEE**

To report annually to full Council on the Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose.

### **10.5 Assessment Sub-Committee**

- (a) The Monitoring Officer may refer any ethical standards complaint to the Assessment Sub-Committee for assessment in accordance with the Arrangements for dealing with allegations of misconduct by councillors and co-opted members as set out in Part 5 of this Constitution. The Sub-Committee has all the powers of the Monitoring Officer in this regard, including determining whether to investigate allegations of misconduct by councillors or co-opted members in circumstances where such determination by the Monitoring Officer is considered by him/her to be inappropriate.
- (b) The Assessment Sub-Committee shall be politically balanced and comprise of five voting members of the Corporate Governance and Standards Committee. The composition of the Sub-Committee shall be determined by the Monitoring Officer after consultation with the Chairman of the Corporate Governance and Standards Committee. A chairman shall be elected from among the voting members.

### **10.6 Hearings Sub-Committee**

- (a) The Hearings Sub-Committee shall conduct local hearings in accordance with arrangements adopted by the Council under which decisions on misconduct allegations against councillors and co-opted members (including members and co-opted members of parish councils in the Council's area) can be made.
- (b) The Hearings Sub-Committee shall be politically balanced and comprise of five voting members of the Corporate Governance and Standards Committee. The composition of the Sub-Committee shall be determined by the Monitoring Officer after consultation with the Chairman of the Corporate Governance and Standards Committee. A chairman shall be elected from among the voting members.
- (c) The Independent Person must be present when misconduct complaints against councillors and co-opted members are being considered by the Hearings Sub-Committee.
- (d) At least one co-opted parish member of the Committee and the Independent Person must be present when misconduct complaints against members or co-opted members of parish councils are being considered by the Hearings Sub-Committee.
- (e) The Hearings Sub-Committee shall determine, by way of a hearing, those allegations of misconduct by councillors or co-opted members where a formal investigation has found evidence of failure to comply with the Councillors' code of conduct and where a local resolution has not been agreed.
- (f) The Hearings Sub-Committee shall determine, following a hearing and a finding that a councillor or co-opted member has failed to comply with the Councillors' code of conduct, such action as may be deemed appropriate and proportionate.
- (g) The Hearings Sub-Committee shall make recommendations, following a hearing, to any parish council in the Council's area on action to be taken against

## **PART 2 (ARTICLE 10) – THE CORPORATE GOVERNANCE AND STANDARDS COMMITTEE**

any councillor or co-opted member of that parish council found to have failed to comply with that council's code of conduct.

### **10.7 Arrangements for investigation and determination of misconduct allegations**

The arrangements adopted by the Council for the investigation and determination of misconduct allegations, including the procedure for the conduct of local hearings by the Hearings Sub-Committee are set out in Part 5 of this Constitution.

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 11 – AREA COMMITTEES

#### 11.1 **Area Committees**

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery and more efficient, transparent and accountable decision-making.

The Council will consult relevant parish councils, community and residents' associations and the chairmen of relevant parish meetings when considering whether and how to establish area committees.

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 12 – JOINT ARRANGEMENTS

#### 12.1 Arrangements to Promote Well-Being

The Council or the Leader/Executive, in order to promote the economic, social or environmental well-being of the 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.

#### 12.2 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 Leader/Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (c) Except as set out below, the Leader/Executive may only appoint executive councillors to a joint committee and those councillors need not reflect the political composition of the Council as a whole.
- (d) The Leader/Executive may appoint councillors to a joint committee from outside the Executive in the following circumstances:-

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 Leader/Executive may appoint to the joint committee any councillor who is a councillor for a ward which is wholly or partly contained within the area.

In this case, the political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements, including any delegations to a joint committee, will be found in the Council's Scheme of Delegation in Part 3 of this Constitution.

#### 12.3 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.

## PART 2 (ARTICLE 12) – JOINT ARRANGEMENTS

- (b) If all the 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 councillors 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.

### 12.4 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/Executive 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 a delegation from another local authority shall be reserved to the full Council.

### 12.5 Contracting Out

The Council (for functions which are not executive functions) and the Leader/Executive (for executive functions) 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.

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 13 – OFFICERS

#### 13.1 Management Structure

(a) **General**

The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

(b) **Chief Executive**

In collaboration with Waverley Borough Council, the Council will engage a Joint Chief Executive, who will have the following functions and responsibilities:

- Leadership of the Council's Service:

To be responsible to councillors for the efficient leadership and management of the Council's paid service.

- Financial Management and Provision of Best Value Services:

To be accountable for ensuring that the Council's services are provided and monitored in a cost-effective manner, achieving best value from expenditure.

To exercise the Council's responsibilities to maintain an adequate and effective system of internal audit of the accounting records and control systems.

To suspend a member of staff from the workplace for up to 48 hours to enable investigations to be undertaken.

- Working in Partnership with Councillors:

To establish and maintain effective and enduring operational processes and relationships with councillors to ensure that the political decision-making process takes place in an informed and integrated manner.

- Managing Change:

To manage the development and promotion of forward strategic process to enable the Council to deliver its aims and objectives, whilst ensuring that all opportunities are identified to modernise and improve local government within Guildford.

The Joint Chief Executive, together with the Joint Strategic Directors, shall comprise the Council's Joint Corporate Management Board.

(c) **Joint Strategic Directors**

In collaboration with Waverley Borough Council, the Council will engage three Joint Directors as follows:

- Joint Strategic Director (Community Wellbeing)
- Joint Strategic Director (Place)
- Joint Strategic Director (Transformation and Governance)

In addition to their roles in managing their respective services, the Joint Strategic Directors will have the following over-arching functions and responsibilities:

- To ensure the direction and operation of those services is co-ordinated with each other and meets the expectations of the Executive and the Management Board without detracting from the ability of the Joint Executive Heads of Service to manage their own service or detract from their accountability for its service delivery and performance.
- To communicate effectively with the Leader, relevant Lead Councillor(s), the Joint Chief Executive, other Joint Strategic Directors (within and outside Management Board meetings) and the allocated Joint Executive Heads of Service to ensure timely and accurate knowledge and understanding across the Council of its policies, objectives, direction, and current operational and contextual issues and challenges.
- To represent the service views of the services they have responsibility for and in turn act corporately in managing or guiding the delivery of the Council's policies and objectives.
- To support the Head of Paid Service as necessary.
- To liaise with the relevant lead councillor(s) and work with them in the delivery of the key service areas.

(d) **Head of Paid Service, Monitoring Officer and Chief Finance Officer**

The Council will designate the following Officers as shown:

Officer	Designation
Annie Righton, Interim Joint Chief Executive	Head of Paid Service
Susan Sale, Joint Executive Head of Legal and Democratic Services	Monitoring Officer
Richard Bates, Interim Joint Executive Head of Finance	Chief Finance Officer

Such posts will have the functions described in Articles 13.2 - 13.4 below.

(e) **Structure**

The Head of Paid Service will determine and publicise a description of the management structure of the Council and the deployment of officers. This is set out in Part 7 of this Constitution.

### 13.2 **Functions of the Head of Paid Service**

(a) **Discharge of Functions by the Council**

The Head of Paid Service will report to the 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 Chief Finance Officer if a qualified accountant.



13.3 **Functions of the Monitoring Officer**

- (a) **Maintaining the Constitution**  
The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available to councillors, staff and the public and available on the Council's website.
- (b) **Contributing to Corporate Management**  
The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional legal and ethical advice.
- (c) **Ensuring Lawfulness and Fairness of Decision-Making**  
After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Leader/Executive in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (d) **Supporting the Corporate Governance and Standards Committee**  
The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Corporate Governance and Standards Committee.
- (e) **Conduct of Councillors**  
The Monitoring Officer will ensure compliance with the Council's responsibilities and arrangements for dealing with allegations of misconduct by councillors and co-opted members as set out in Part 5 of this Constitution.
- (f) **Advice on Budget and Policy Framework**  
The Monitoring Officer will advise whether executive decisions are in accordance with the budget and policy framework.
- (g) **Providing Advice**  
The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (h) **Restrictions on Posts**  
The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

13.4 **Functions of the Chief Finance Officer**

- (a) **Ensuring Lawfulness and Financial Prudence of Decision-Making**  
After consulting with the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Leader/Executive in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) **Administration of Financial Affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) **Contributing to Corporate Management**

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) **Providing Advice**

The Chief Finance 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 Chief Finance Officer will provide financial information to the media, members of the public and the community.

(f) **Determining Accounting Records and Control Systems**

The Chief Finance Officer will determine the Council's accounting records (including the form of accounts and supporting accounting records) and the accounting control systems.

(g) **Calculating the Council Tax**

In connection with the calculations to set the council tax, the Chief Finance Officer will report on:

- (i) the robustness of the estimates made for the purpose of the calculations; and
- (ii) the adequacy of financial reserves.

**13.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer**

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

**13.6 Conduct**

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

**13.7 Employment**

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

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 14 – DECISION-MAKING

#### 14.1 **Responsibility for Decision-Making**

The Council will issue and keep up-to-date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

#### 14.2 **Principles of Decision-Making**

All decisions taken by or on behalf of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) providing information on the options considered and giving reasons for the decision taken.

#### 14.3 **Types of Decision**

##### (a) Decisions Reserved to Full Council

Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.

##### (b) Key Decisions

- (i) A 'key decision' means an executive decision which is likely to:
  - result in expenditure or savings of at least £200,000; or
  - have a significant impact on two or more wards within the Borough.
- (ii) 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.

#### 14.4 **Decision-Making**

All decision making shall comply with the relevant Articles of, and Procedure Rules set out in, this Constitution

#### 14.5 **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.

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 15 – FINANCE, CONTRACTS AND LEGAL MATTERS

#### 15.1 **Financial Management**

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

#### 15.2 **Contracts**

Every contract (excluding contracts for property disposals and acquisitions) made by the Council will comply with the Procurement Procedure Rules set out in Part 4 of this Constitution.

#### 15.3 **Legal Proceedings**

The Lead Specialist - Legal 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 Lead Specialist - Legal considers that such action is necessary to protect the Council's interests.

#### 15.4 **Authentication of Documents**

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

Any contract (excluding contracts for property disposals and acquisitions) which amounts to or exceeds £100,000 in value must, unless the Lead Specialist - Legal determines otherwise, be sealed with the common seal of the Council. In exceptional cases where the Lead Specialist - Legal decides that a contract which amounts to or exceeds £100,000 in value does not require the common seal, it must be signed, subject to compliance with the Council's Financial Procedure Rules, by two Joint Strategic Directors or the Lead Specialist - Legal. Contracts less than £100,000 in value must be signed by the relevant Joint Strategic Director, the Lead Specialist - Legal, or service leader or, subject to compliance with the Council's Financial Procedure Rules, their nominee.

#### 15.5 **Common Seal of the Council**

The common seal of the Council will be kept in a safe place in the custody of the Lead Specialist - 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 the Lead Specialist - Legal should be sealed.

The affixing of the common seal will be attested by the Joint Chief Executive, or the Lead Specialist - Legal or some other persons authorised by them.

An entry of every sealing of a document will be made and consecutively numbered in a book kept by the Lead Specialist - Legal for the purpose and shall be signed by the persons who have attested the seal.

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 16 – REVIEW AND REVISION OF CONSTITUTION

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

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

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

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

#### 16.2 **Corporate Governance and Standards Committee.**

The Corporate Governance and Standards Committee will monitor and review the operation of the Constitution particularly in respect of financial procedures and protocols, procurement procedures and guidelines, as set out in Article 10.

#### 16.3 **Changes to the Constitution**

##### Minor Changes

- (a) The Monitoring Officer may generally update the Constitution to correct errors, or to reflect changes in legislation, or make amendments consequential upon changes to operational arrangements, without report, subject to consultation with the lead councillor with responsibility for governance.

##### Other Changes

- (b) Apart from changes to Part 3 in relation to executive functions which will be discharged by the Leader/Executive, changes to the Constitution other than minor changes will be approved by the full Council.

##### Proposals

- (c) The Monitoring Officer shall, before making any proposals for change to the Council, carry out consultation appropriate to the scale, scope and extent of the change proposed. The persons and bodies consulted may, without limitation, include the Management Team, the Leader and Executive, the Overview and Scrutiny Committee (if relevant) and the Corporate Governance and Standards Committee.

## GUILDFORD BOROUGH COUNCIL

### ARTICLE 17 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

#### 17.1 Suspension of the Constitution

(a) **Limit to Suspension**

The Articles of this Constitution may not be suspended. The Procedure Rules contained in Part 4 of this Constitution may be suspended as regards any business at the meeting where their suspension is moved to the extent permitted within those Rules and the law.

(b) **Procedure to Suspend**

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.

#### 17.2 Interpretation

The ruling of the Mayor, the Leader or the chairman of any committee or sub-committee, as appropriate, 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, the Executive or any committee or sub-committee as the case may be. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

#### 17.3 Publication

(a) The Monitoring Officer will ensure that where a councillor so wishes a printed copy of this Constitution is delivered to him or her following their election to the Council.

(b) The Monitoring Officer will ensure that an up to date copy of the Constitution is available for viewing on the Council's website.

(c) The Monitoring Officer will ensure that a copy of this Constitution is available for inspection at the Council Offices and can be purchased on payment of a reasonable fee.

## GUILDFORD BOROUGH COUNCIL

### SCHEDULE 1: DESCRIPTION OF EXECUTIVE ARRANGEMENTS

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (The Leader of the Council)
2. Article 7 (The Executive) and the Executive Procedure Rules;
3. Article 8 (The Overview and Scrutiny Committee) and the Overview and Scrutiny Procedure Rules;
4. Article 11 (Area Committees)
5. Article 12 (Joint Arrangements)
6. Article 14 (Decision-Making) and the Access to Information Procedure Rules; and
7. Part 3 (Responsibility for Functions)

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GUILDFORD  
B O R O U G H

## **PART 3**

# **RESPONSIBILITY FOR FUNCTIONS**

## GUILDFORD BOROUGH COUNCIL - RESPONSIBILITY FOR FUNCTIONS

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) require that certain parts of the structure of the Council must be responsible for certain decisions. The Regulations specify:

- (a) functions which are not to be the responsibility of the Council's Executive;
- (b) functions which may but need not be the responsibility of the Executive ("local choice functions"); and
- (c) functions which are to some extent the responsibility of the Executive.

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

### **Responsibility for Council (Non Executive) Functions**

These functions, which are listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), may not be the responsibility of the Council's Executive. Appendix I identifies these functions and indicates where responsibility lies within the Council. In accordance with legislation, certain decisions on these matters must be taken by the full Council, whilst others may be taken by the full Council, a committee appointed by the Council, officers, or jointly with other bodies under separate joint arrangements, provided that they are within the budget and policy framework approved by the full Council.

### **Responsibility for Local Choice Functions**

Appendix II to this part of the Constitution sets out which "local choice functions" are the responsibility of the Council and/or its committees and which are the responsibility of the Executive.

### **Responsibility for Executive Functions**

"Executive functions" are all the statutory functions of the Borough Council except those listed or referred to in Appendices I and II. In accordance with the Local Government Act 2000, decisions on these matters may be taken by the Leader, the Executive collectively, an individual lead councillor, committee of the Executive, individual local ward councillors, officers or jointly with other bodies under separate joint arrangements, provided that they are within the budget and policy framework approved by the full Council.

### **Joint Responsibility for certain Council (Non-Executive) and Executive Functions**

The Council's Taxi and Private Hire enforcement powers have been delegated jointly to the ten other licensing authorities in Surrey, without prejudice to the Council's ability to exercise those powers itself within the Borough.

The Council has also entered into collaborative working arrangements with Waverley Borough Council resulting in the creation of a single joint management board with Waverley Borough Council, comprised of statutory officers (Head of Paid Service; Chief Finance Officer; Monitoring Officer), joint strategic directors and joint executive heads of service.

### **Responsibilities Delegated to Officers**

The extent to which the functions described above have been delegated to officers is shown in the Council's scheme of delegation in this Part of the Constitution.

**1. APPENDIX I: RESPONSIBILITY FOR COUNCIL (NON-EXECUTIVE) FUNCTIONS**

“Council functions” are the statutory functions of the Borough Council which may not be exercised by the Executive.

<b>RESPONSIBILITY FOR COUNCIL (NON-EXECUTIVE) FUNCTIONS</b>			
<b>Council/Committee</b>	<b>Membership</b>	<b>Functions</b>	<b>Delegation of Functions</b>
<b>Council</b>	48 councillors	The Council is responsible for the functions (in so far as they are a Borough Council responsibility) set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), which have not been delegated to any other committee as described above.	Authority to undertake some of these functions has been delegated to officers in accordance with the Council’s scheme of delegation set out in this Part of the Constitution.
<b>Planning Committee</b>	15 councillors appointed by the Council	All functions relating to town and country planning and development control in so far as they are the responsibility of the Borough Council as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).  All functions relating to:  (a) the stopping up or diversion of footpaths, bridleways or restricted byways affected by development; (b) the extinguishment of public rights of way over land held for planning purposes; and (c) trees and hedgerows  as specified in Section I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).	Authority to undertake some of these functions has been delegated to officers in accordance with the Council’s scheme of delegation set out in this Part of the Constitution.

<b>RESPONSIBILITY FOR COUNCIL (NON-EXECUTIVE) FUNCTIONS</b>			
<b>Council/Committee</b>	<b>Membership</b>	<b>Functions</b>	<b>Delegation of Functions</b>
<b>Licensing Committee</b>	15 councillors appointed by the Council	<p>Except as otherwise provided in the Licensing Act 2003 and Gambling Act 2005, all functions of the licensing authority prescribed by those Acts.</p> <p>All other functions relating to licensing and registration in so far as they are the responsibility of the Borough Council as specified in Section B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).</p> <p>All functions relating to health and safety at work in so far as they are the responsibility of the Borough Council as specified in Section C of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).</p>	<p>Authority to undertake some of these functions has been delegated to the Licensing Regulatory and Licensing Sub-Committees and officers in accordance with the Council's scheme of delegation set out in this Part of the Constitution.</p>
<b>Corporate Governance and Standards Committee</b>	7 councillors appointed by the Council, and up to 3 co-opted non voting independent members and up to 3 co-opted non voting parish members	<p>In accordance with the Committee's terms of reference, functions relating to:</p> <ul style="list-style-type: none"> <li>(a) the Council's audit and accounts responsibilities and corporate governance activities; and</li> <li>(b) functions relating to ethical standards and the conduct of councillors.</li> </ul>	<p>Authority to undertake some of these functions has been delegated to officers in accordance with the Council's scheme of delegation set out in this Part of the Constitution.</p> <p>Authority to undertake some functions relating to the conduct of councillors has been delegated to the Monitoring Officer and to the Assessment Sub-Committee and Hearings Sub-Committee.</p>

RESPONSIBILITY FOR COUNCIL (NON-EXECUTIVE) FUNCTIONS			
Council/Committee	Membership	Functions	Delegation of Functions
<b>Joint Senior Staff Committee</b>	Leader of the Council plus 2 councillors appointed by the Council; and the Leader of Waverley Borough Council plus 2 councillors appointed by that Council	Adopting and exercising such of the functions of Guildford Borough Council and Waverley Borough Council (“the Councils”) as can be delegated by those Councils in respect of the appointment and disciplinary action relating to the Councils’ Joint Chief Executive, Joint Chief Officers and Joint Deputy Chief Officers as provided for by the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) or any successor regulations.	None
<b>Joint Governance Committee</b>	Leader of the Council plus 5 councillors appointed by the Council; and the Leader of Waverley Borough Council plus 5 councillors appointed by that Council	Adopting and exercising such of the functions of the councils as may be delegated by those councils in respect of the governance arrangements for inter-authority working between Guildford Borough Council and Waverley Borough Council.	None

2. APPENDIX II: RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

“Local choice functions” are those statutory functions of the Borough Council which can be exercised by either the Council (or a committee or officer of the Council) or by the Leader/Executive.

RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS		
Function	Decision-Making Body	Delegation of Functions
Any function under a local act (other than that specified in Regulation 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations (as amended) or Schedule 1 thereto.	Leader/Executive	Authority to undertake some of these functions has been delegated to officers in accordance with the Council's scheme of delegation set out in this Part of the Constitution.
The determination of any appeal against any decision made by or on behalf of the Council (other than staffing or licensing matters).	Leader/Executive	
The appointment of review boards under regulations under Section 34(4) (determination of claims and reviews) of the Social Security Act 1998.	Leader/Executive	
Any function relating to contaminated land.	Leader/Executive	
The discharge of any function relating to the control of pollution or the management of air quality.	Leader/Executive	
The service of an abatement notice in respect of a statutory nuisance.	Leader/Executive	
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Borough.	Leader/Executive	
The inspection of the Borough to detect any statutory nuisance.	Leader/Executive	
The investigation of any complaint as to the existence of a statutory nuisance.	Leader/Executive	
The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.	Leader/Executive	
The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Leader/Executive	

<b>RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS</b>		
<b>Function</b>	<b>Decision-Making Body</b>	<b>Delegation of Functions</b>
<p>The making of agreements for the execution of highways works.</p> <p>The appointment of any individual:</p> <p>(a) to any office other than an office in which he is employed by the authority;</p> <p>(b) to any body other than:</p> <p style="padding-left: 20px;">(ii) the authority;</p> <p style="padding-left: 20px;">(iii) a joint committee of two or more authorities; or</p> <p>(c) to any committee or sub-committee of such a body,</p> <p>and the revocation of any such appointment.</p> <p>The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities</p>	<p>Leader/Executive</p> <p>Council</p> <p>Leader/Executive</p>	<p>Authority to undertake some of these functions has been delegated to officers in accordance with the Council's scheme of delegation set out in this Part of the Constitution.</p>

**GUILDFORD BOROUGH COUNCIL**  
**TERMS OF REFERENCE OF COUNCIL,**  
**LEADER/EXECUTIVE AND COMMITTEES**

**POWERS RESERVED TO FULL COUNCIL**

The following functions must not be exercised by the Executive and, where not otherwise delegated, shall be reserved to the full Council:

1. To adopt, amend (apart from changes to Part 3 in relation to executive functions which will be discharged by the Leader/Executive and reported to Council) or, in accordance with the provisions of Article 17, suspend the Council's Constitution.
2. To make proposals and fulfil any duties to change the Council's executive arrangements, determine whether a referendum is required and pass a resolution to make any such change.
3. To approve the Council's budget, as defined in Article 4.1(b) of the Constitution.
4. To approve, amend, revoke or replace any plan or strategy falling within the Council's policy framework (including any decision required for submission to the Secretary of State).
5. To make decisions on all executive matters which are contrary to or not wholly in accordance with the budget and policy framework, except in cases of urgency or other circumstances defined in the Constitution.
6. To adopt, revise or replace the code of conduct for councillors and co-opted members and arrangements for dealing with allegations of misconduct.
7. To approve for public consultation in accordance with Part 6 of The Town and Country Planning (Local Planning) (England) Regulations 2012 any draft proposals relating to a development plan document.
8. To approve the making of an application to the Secretary of State for the transfer of housing land.
9. To make all necessary arrangements for the discharge of non-executive functions through joint arrangements, including the establishment of joint committees, area committees or delegation to another local authority.
10. To authorise the contracting out of non-executive functions to another body.
11. To accept any delegation of functions from another local authority (in relation to both executive and non-executive functions).
12. To make, amend, revoke, re-enact or enforce byelaws.
13. To promote or oppose local or personal bills.
14. To exercise the Council's functions relating to local government pensions.
15. To exercise the Council's functions in relation to elections and electoral registration.
16. To exercise the Council's functions in relation to community governance arrangements, including those relating to parishes and parish councils, and determine any matters relating to the name and status of areas.
17. To make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption and designating a locality as an alcohol disorder zone.



### **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

18. To resolve not to issue casino premises licences.
19. To determine planning applications referred by the Planning Committee in accordance with Council Procedure Rule 26(c).
20. To elect the Mayor and appoint the Deputy Mayor.
21. To elect and remove the Leader of the Council.
22. With the exception of the Executive, to appoint and dissolve committees, determine or amend their terms of reference and alter their size.
23. With the exception of the Executive, to determine the allocation of seats on committees and to make appointments to them.
24. To authorise co-opted members to vote at meetings of the Overview and Scrutiny Committee in accordance with a scheme approved by the Council.
25. To appoint councillors to serve on outside organisations.
26. To determine matters relating to the failure of a councillor to attend meetings for a period of six months.
27. To confer the title of honorary freeman, honorary alderman and honorary officer.
28. To approve, amend, revoke or replace the Council's scheme for councillors' allowances and to determine the levels of all allowances payable to councillors.
29. To determine the amount of any allowance payable to the Mayor or Deputy Mayor.
30. To appoint and dismiss the Joint Chief Executive.
31. To designate officers as the Head of Paid Service, Monitoring Officer and Chief Finance Officer.
32. To appoint proper officers for particular purposes.
33. To determine the terms and conditions on which staff hold office, including procedures for their dismissal, unless otherwise delegated.
34. To exercise such local choice functions as may be set out in Part 3 of this Constitution which the Council has decided should be undertaken by itself rather than the Leader/Executive.
35. To determine policy in respect of the licensing of hackney carriages and private hire vehicles and review such policy upon the recommendation of the Licensing Committee.
36. To determine all other matters which, by law, must be reserved to the Council.

#### **LEADER/EXECUTIVE**

1. To provide leadership and direction for the Council.
2. To prepare the budget and policy framework, as defined in Article 4.1 (a) and (b) of the Constitution, for consideration by the Council.
3. To prepare the following matters for consideration by the Council:
  - (a) any proposals and duties in relation to changes to the Council's executive arrangements; and
  - (b) any proposals from the Council's Independent Remuneration Panel to amend, revoke or replace the Council's scheme for councillors' allowances and the levels of all allowances payable to councillors.
4. At the request of the Leader or a relevant, lead councillor to submit comments or recommendations on non-executive matters outside the budget and policy framework or not specified in (3) above to the full Council prior to their determination.

## **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

5. To amend, withdraw or revoke any plan or strategy within the Council’s policy framework in the following circumstances:
  - (i) if required to give effect to requirements of the Secretary of State or a Minister of the Crown in relation to a plan or strategy submitted for his approval;
  - (ii) if recommended by the person carrying out an independent examination of a development plan document;
  - (iii) if authorised by a determination made by the Council when approving or adopting the plan or strategy; or
  - (iv) if the decision may reasonably be regarded as urgent and the approval of the Overview and Scrutiny Committee chairman or, in his or her absence, the Mayor or Deputy Mayor, has been obtained.
6. To make decisions on all executive matters within the approved budget and policy framework and on all other matters which are not the responsibility of any other part of the Council by virtue of the law or this Constitution.
7. To take decisions which are contrary to or not wholly in accordance with the budget and policy framework in cases of urgency in accordance with the Council’s Budget and Policy Framework Procedure Rules.
8. To approve supplementary estimates and virements in accordance with the Council’s Financial Procedure Rules.
9. To make all necessary arrangements for the discharge of executive functions through joint arrangements, including the establishment of joint committees, area committees or delegation to another local authority.
10. To authorise the contracting out of executive functions to another body.
11. To exercise the Council’s powers in relation to emergencies and disasters.
12. To ensure that all Key (and other significant) decisions are considered by the relevant Executive Advisory Boards prior to the formal consideration of all such decisions by the Executive and to take into account any recommendations made by the Executive Advisory Boards.

### **EXECUTIVE SHAREHOLDER AND TRUSTEE COMMITTEE**

#### **Background**

The Executive Shareholder and Trustee Committee (“the Committee”) has been established by the Executive specifically to discharge the shareholder and trustee functions of the Council. The Committee will meet at least once a year to receive an annual report and annual accounts from the Companies and Charities, but otherwise meetings will be called on an “as and when required” basis to deal with company and charity business.

#### **Membership**

To be determined by the Leader of the Council from time to time. Only members of the Executive may sit and vote on the Committee. A quorum of three and a maximum number of five Executive Members will be appointed to the Committee. Substitutes, who must also be Executive Members, may be permitted at the discretion of the Leader. The Leader and Deputy Leader of the Council shall be the Chairman and Vice-Chairman respectively of the Committee.

#### **Purpose**

To exercise the function of the Council as shareholder and trustee as stipulated by relevant legislation including the Companies Act 2006 and Charities Act 2011 and associated statutory guidance and any guidance issued by relevant regulators.

## **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

### **Remit**

To undertake all functions of the Council as a shareholder and trustee under the Companies Act 2006 and the Charities Act 2011 which may include without limitation:

#### Shareholder duties

- To determine the Shareholder Agreements between the Council and the Companies
- To determine a guidance note for duties of directors (including conflicts of interests)
- To approve and adopt a conflict of interest policy for the Committee
- To make decisions that only the Council as shareholder can make by law e.g. altering a company's Articles of Association and using, where applicable the written resolution procedure to do so, as prescribed by the Companies Act 2006.
- For non-Companies Act 2006 decisions, a process will be followed without using the formal written resolution procedure. In these circumstances, the Chairman of the Committee will sign a document to record the fact that they have approved the decision.
- To consult with the Companies to determine a set of key operating principles the Companies will seek to adapt. These principles will ultimately be agreed by the Companies and the Committee
- To appoint and dismiss directors of the Companies (where power to do so is reserved to the shareholder)
- To appoint and remove a Company Secretary and Auditor
- To agree any loan agreements or draw-down of Council financing (subject to funds being made available by the Council and any previous authorised delegations)
- To agree any reserved matter required by the Articles of Association or Shareholder Agreements
- To agree the Articles of Association or any amendment thereof
- To approve the Companies Delegation Matrix
- To agree and approve the allotment of shares (equity investments)

#### Trustee duties

- To ensure compliance with and further each of the Charities' charitable objects, trust deeds and associated public benefit; including an annual review
- To ensure the completion and submission of Charity Annual Account returns and the Charity Annual Trustee Report to the Charity Commission
- To arrange a Trustee meeting to agree the accounts and Trustee's Annual Report within two months of the financial year ending
- To comply with best practice (Statement of Recommended Practice, SORP) to produce annual accounts and a report that includes an explanation of what the charity has done for the public benefit during the year
- To make strategic decisions including approving annual business plans, management agreements and leases
- To annually review the purposes of the Charities and make any required applications to amend the Charities' governing documents to support effective management of the Charities
- To approve and adopt a conflict of interest policy
- To approve disposals (leases, licences) in accordance with S117 of the 2011 Charities Act 2011 including:
  - To consult the public on the disposal of charity property where required to do so
  - Issue public notices regarding proposed disposal of charity property where required to do so.

## **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

- To approve the formation of management companies where considered to be a suitable mechanism for managing a charity. This could include the charity becoming a member of a management company where suitable to do so.

### **EXECUTIVE ADVISORY BOARDS**

The Council shall appoint two Executive Advisory Boards as follows:

- Community Executive Advisory Board
- Resources Executive Advisory Board

#### **Remits:**

The remits of the Executive Advisory Boards will be aligned with the Joint Management Team structure and cover the service areas indicated below.

#### Community Executive Advisory Board

- Communications and Customer Services
- Community Services
- Environmental Services
- Housing Services
- Regulatory Services
- Commercial Services

#### Resources Executive Advisory Board

- Planning Development
- Regeneration and Planning Policy
- Assets
- Finance
- Legal & Democratic Services
- Organisational Development

Each Executive Advisory Board will consider reports on matters relating to the functions of the Executive that fall within its remit. The remits of each Executive Advisory Board are shown below and are aligned to themes in the Corporate Plan; they will be reviewed and approved at the Council's Selection meeting each year. The Executive Advisory Boards will meet in public, be webcast, and be subject to Part C of the Council Procedure Rules, Public Speaking Procedure Rules and Access to Information Procedure Rules in Part 4 of the Constitution.

#### **Membership:**

- (a) Each Executive Advisory Board shall comprise 12 non-executive councillors, one of whom shall be appointed by the Council as chairman, with normal voting rights.
- (b) The Council shall appoint a vice-chairman for each Executive Advisory Board.
- (c) Proportionality rules will apply.
- (d) Substitutes will be allowed in accordance with the rules and procedures of this Constitution, and in respect of each Executive Advisory Board, the Council may appoint up to seven substitute members for each political group.

## **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

### **Meetings:**

- (a) Each Executive Advisory Board shall normally meet on alternate months with the flexibility to have a balanced inter-changeable remit as appropriate to the agenda items, without the risk of losing topic continuity and expertise, and possibly ahead of Executive meetings to offer a pre-decision opportunity to make recommendations.
- (b) The relevant Lead Councillor (or other Executive members in the absence of the relevant Lead Councillor) will be expected to proactively attend Executive Advisory Board meetings and should normally present matters (with officer support) for discussion at meetings and engage actively in a dialogue with the Executive Advisory Boards regarding those matters.
- (c) The quorum of each Executive Advisory Board will be 4.

### **Responsibilities:**

Each Executive Advisory Board will have free range to select their own review topics on which to advise the Executive in addition to the following general responsibilities within its remit:

- (a) To consider and (where necessary) make recommendations on all Key (or other significant) Decisions, prior to the formal consideration of all such decisions by the Executive.
- (b) To assist and advise the Executive in the development of Policy Framework issues.
- (c) To undertake research and reviews for the purpose of advising the Executive on the delivery of Corporate Plan Priorities.
- (d) To advise the Executive at an early stage in respect of the formulation and development of policies and projects that will help to deliver Corporate Plan Priorities
- (e) To assist in the development of Executive Decisions
- (f) To assist and advise the Executive as regards budget preparation.
- (g) To develop and maintain a work programme ensuring that there is efficient use of its time

### **Powers:**

Each Executive Advisory Board will have the power:

- (a) To require the Leader and/or lead councillors and officers to attend before it to answer questions
- (b) To question and gather evidence from any person (with their consent)
- (c) To co-opt expert individuals on a non-voting basis to assist their work.
- (d) To set up, subject to available resources, panels, task groups or breakout groups to look at specific issues relating to the delivery of the Corporate Plan (or other significant priorities) in order to inform decision making by the Executive. For the avoidance of doubt, the membership of such panels and groups shall be open to all councillors.

### **Protocol for their operation:**

- (1) EABS are advisory in nature and do not have any substantive decision-making powers delegated to them. EABs are to act as a source of advice to the Executive.
- (2) EABs will enable greater involvement and engagement of councillors and the public in significant Executive decisions.
- (3) EABS will advise the Executive at an early stage about the formulation and development of policies and projects that will help deliver Corporate Plan priorities.

## **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

The EABs are intended to enable backbench councillors to be more closely involved with issues of greatest importance to the Council.

- (4) The chairmen and vice-chairmen of the EABs will meet regularly to identify priorities and prepare draft work programmes for consideration and approval by the EABs and, as part of this process, will take into account the forthcoming key or significant Executive decisions set out in the Forward Plan. Subject to paragraph (5) below, those matters identified in the agreed work programmes will be considered by the EABs in detail.
- (5) When considering an Executive decision, the EABs will aim to do so at a time when it is still open to influence, that is to say, when there is an expectation that advice from the EAB or any recommendation or suggestion for improvement could realistically lead to change. EAB agendas will list all forthcoming key or significant Executive decisions set out in the Forward Plan, except those that are urgent.
- (6) EABs will determine their final recommendations to the Executive by consensus if at all possible.
- (7) The advice of EABs to the Executive, including explanation for any recommendations, will be contained within a report considered by the Executive. The justification for not accepting advice from an EAB is to be made clear in the options considered by the Executive.
- (8) EAB Chairmen and / or Vice-Chairmen shall attend Executive meetings to elaborate on advice given by their respective EABs, and shall receive feedback from the Executive.
- (9) Membership of both an EAB and the Overview and Scrutiny Committee does not inevitably create a conflict of interest. As a rule, councillors should not be involved in scrutinising a decision in which they have been involved directly; yet, EABs are advisory and it remains the responsibility of the Executive to formally take and implement the decision.

### **CORPORATE GOVERNANCE AND STANDARDS COMMITTEE**

#### **Statement of purpose**

The Committee has a dual purpose both as an audit committee and a standards committee.

The Committee is a key component of the authority's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

The purpose of the Committee is to provide independent assurance to councillors of the adequacy of the risk management framework and the internal control environment. It provides independent review of the authority's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

## **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

With regard to standards, the Committee promotes high standards of conduct by councillors and co-opted members and oversees the arrangements for dealing with allegations of misconduct.

### **Audit and Accounts Activity**

1. To consider reports on the summary of internal audit activity (actual and proposed) and the level of assurance that it can give over the Council's corporate governance arrangements and monitor the progress of high priority actions arising from audit recommendations
2. To consider reports dealing with the management and performance of the providers of the internal and external audit functions.
3. To approve the Internal and External Audit Plans, and significant interim changes.
4. To consider the external auditor's annual letter (including their audit fee), relevant reports (both financial and strategic) and the report to those charged with governance.
5. To consider specific reports submitted by the internal or external auditors
6. To comment on the scope and depth of internal and external audit work and ensure that it gives value for money.
7. To review and approve the annual statement of accounts and Audit Findings Report with specific emphasis on whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
8. To consider reports on the Capital and Investment Strategy prior to their referral to the Executive and Council
9. To consider budget monitoring reports at least on a quarterly basis.

### **Corporate Governance Activity**

10. To monitor and review the operation of the Council's Constitution, particularly in respect of financial procedures and protocols, procurement procedures and guidelines and make recommendations, as appropriate, in respect of any proposed amendments to the Executive and Council.
11. To consider the Council's arrangements for corporate governance and to recommend such actions necessary to ensure compliance with best practice, together with any relevant corporate governance related issues referred to the Committee by the Joint Chief Executive, a Director, the Leader/Executive or any other committee of the Council.
12. To monitor the effective development and operation of risk management undertaken throughout the Council including the review of the Corporate Risk Register.
13. To consider and approve the Council's Annual Governance Statement in advance of the formal approval of the Council's Statement of Accounts.
14. To consider an annual report of the operation of the whistle-blowing policy, including incidents reported
15. To monitor and audit the Council's equality and diversity policies and approve the Equality Scheme and associated action plan.
16. To monitor bi-annually the Council's performance in dealing with Freedom of Information and Environmental Information Regulations requests.
17. To monitor the Council's progress on various data protection and information security initiatives.
18. To consider annual reports on the work of task groups appointed by the Committee, together with other matters submitted to the Committee periodically by those task groups

## **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

19. To consider bi-annually Planning Appeals Monitoring Reports and S106 Monitoring Reports
20. To consider an annual report on the exercise of powers under the Regulation of Investigatory Powers Act 2000

### **Ethical Standards Activity**

21. To promote and maintain high standards of conduct by councillors and co-opted members<sup>1</sup>
22. To advise the Council on the adoption or revision of the Councillors' code of conduct.
23. To advise, train or arrange to train councillors and co-opted members on matters relating to the code of conduct.
24. To agree arrangements for the selection and interviewing of candidates for appointment as Independent Persons (including such joint arrangements with other councils as may be deemed by the Monitoring Officer to be appropriate) and to make recommendations to full Council on these appointments.
25. To agree allowances and expenses for the Independent Person and any Reserve Independent Persons
26. To grant dispensations, after consultation with the independent person, to councillors and co-opted members with disclosable pecuniary interests.
27. To monitor and review the operation of the Code of Conduct for Staff and the Protocol on Councillor/ Officer Relations and to make recommendations as appropriate to Council in respect of any necessary amendments.
28. To consider the Monitoring Officer's Annual Report on misconduct complaints against councillors, and any other matter referred by the Monitoring Officer.

### **Accountability arrangements**

To report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.

To report annually to full Council on the Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose.

## **GUILDFORD BOROUGH COUNCIL AND WAVERLEY BOROUGH COUNCIL JOINT SENIOR STAFF COMMITTEE TERMS OF REFERENCE**

The Joint Senior Staff Committee is to be established in accordance with Section 102 (1) (b) of the Local Government Act 1972 (Appointment of committees).

### **1.0 MEMBERSHIP**

The Joint Senior Staff Committee shall comprise 6 Councillors, being the respective Leader of each Council plus two Councillors appointed by Guildford Borough Council (one of whom

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<sup>1</sup> A "co-opted member" for this purpose is, defined in the Localism Act section 27 (4) as "a person who is not a member of the authority but who

(a) is a member of any committee or sub-committee of the authority, or

(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority; and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

Reference to councillors or co-opted members in paragraphs 30 and 31 includes councillors or co-opted members of parish councils in the Council's area.



## **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

shall be the Leader of the principal Opposition Group) and two Councillors appointed by Waverley Borough Council (one of whom shall be the Leader of the principal Opposition Group). The Committee shall be politically balanced for each Council in accordance with the provisions of the Local Government and Housing Act 1989.

### **2.0 APPOINTMENT**

Appointments shall be made in accordance with the Local Government (Committees and Political Groups) Regulations 1990.

### **3.0 QUORUM**

The quorum for a meeting of the Joint Senior Staff Committee shall be 3 members (subject to each Council being represented at any meeting by at least 1 member).

### **4.0 TIME & LOCATION OF MEETINGS**

The venue and commencement time for meetings of the Joint Senior Staff Committee shall be determined by the Joint Monitoring Officer in consultation with the Leader of each Council, and shall normally alternate between the Civic Office of each Council.

### **5.0 CHAIRMAN**

The Joint Senior Staff Committee shall be chaired by the Leader of the Council at whose civic office the meeting is held. In their absence the meeting will be chaired by the Leader of the Council not hosting the meeting. In the absence of both Leaders, the chair will be elected by the meeting on the basis of a majority vote.

### **6.0 VOTING**

Decisions of the Joint Senior Staff Committee shall be made by a majority vote of those members present and voting. A vote will be taken either by way of a show of hands or by electronic means. The Chairman shall have no second or casting vote. In circumstances where a majority decision cannot be made by the Joint Senior Staff Committee, the delegation of powers and function to the Committee, relating to that decision, will immediately cease. Any such decision will be referred to each Council for determination.

### **7.0 ROLE**

Adopting and exercising such of the functions of Guildford Borough Council and Waverley Borough Council (“the Councils”) as can be delegated by those Councils in respect of the appointment and disciplinary action relating to the Councils’ Joint Chief Executive, Joint Chief Officers and Joint Deputy Chief Officers as provided for by the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) or any successor regulations.

### **8.0 FREQUENCY OF MEETINGS**

Meetings will be arranged by the Joint Monitoring Officer in consultation with the Leader of each Council, on such occasions as is necessary to determine any business within its terms of reference.

### **9.0 SUBSTITUTE MEMBERS**

In the event of an appointed Councillor being unable to attend any meeting of the Joint Senior Staff Committee, the relevant Political Group Leader may appoint a Substitute

## **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

Member, from the same Council, provided that prior written notice of such substitution is given to the Monitoring Officer by 5pm the working day prior to the meeting.

### **10.0 DELEGATION**

The Joint Senior Staff Committee may arrange for the discharge of their functions by an Officer and in doing so will set out clearly any limits upon such delegation.

### **11.0 WORKING GROUPS**

The Joint Senior Staff Committee may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.

### **12.0 SUB-COMMITTEES**

The Joint Senior Staff Committee may establish sub-committees consisting solely of the Members of one Council, to consider matters relating only to that Council.

### **13.0 OFFICER EMPLOYMENT PROCEDURE RULES**

The Joint Senior Staff Committee shall operate in compliance with the Officer Employment Procedure Rules adopted by each Council into their Constitution.

### **14.0 FUNCTIONS AND RESPONSIBILITIES**

#### **14.1 Joint Chief Executive/Head of Paid Service**

- (i) Subject to (ii) below, to undertake and determine on behalf of the Councils all aspects of the process for the recruitment and selection of the Joint Chief Executive/Head of Paid Service, including final approval of the terms and conditions of employment (based on current provisions) for that post.
- (ii) The final decision as to the appointment of the joint Chief Executive/Head of Paid Service shall be reserved to each Council, and subject to no material or well-founded objection to the making of an offer of appointment being received by the Leader of either Council on behalf of their respective Executives.
- (iii) To determine pension discretions relating to the Joint Chief Executive/ Head of Paid Service.
- (iv) To consider any financial settlement of an affected employee who is unsuccessful in respect of the selection of the Joint Chief Executive/Head of Paid Service, and to make recommendations as appropriate for formal approval by each Council.
- (v) To confirm into post, or otherwise, the successful candidate following any probationary or trial period.
- (vi) To be responsible for ad-hoc employment matters affecting the Joint Chief Executive/Head of Paid Service post, including consideration and determination of any 'cost of living' pay award.
- (vii) To be responsible, subject to (viii) below for any disciplinary action regarding the Joint Chief Executive / Head of Paid Service.

## **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

- (viii) The final decision to dismiss the Joint Chief Executive / Head of Paid Service shall be reserved to each Council and shall be subject to no material or well-founded objection to the proposed dismissal being received by the Leader of either Council on behalf of their respective Executives.

### **14.2 Joint Statutory Officer<sup>2</sup> posts**

- (i) Subject to (ii) below, to undertake and determine on behalf of the Councils all aspects of the process of recruitment and selection of any Joint Statutory Officer post.
- (ii) The final decision as to the appointment of any Joint Statutory Officer posts shall be reserved to each Council and, subject to no material or well-founded objection to the making of an offer of appointment being received by the Leader of either Council on behalf of their respective Executives.
- (iii) To determine pension discretions relating to any Joint Statutory Officer posts.
- (iv) To consider any financial settlement of an affected employee who is unsuccessful in respect of the selection of any Joint Statutory Officer posts, and where necessary to make recommendations as appropriate for formal approval by each Council.
- (v) To be responsible for ad-hoc employment matters affecting any Joint Statutory Officer posts.
- (vi) To be responsible, subject to (vii) below, for any disciplinary action regarding any Joint Statutory Officer.
- (vii) The final decision to dismiss any Joint Statutory Officer shall be reserved to each Council and shall be subject to no material or well-founded objection to the proposed dismissal being received by the Leader of either Council on behalf of their respective Executives.

### **14.3 Joint Strategic Directors**

- (i) Subject to (ii) below, to undertake and determine on behalf of the Councils all aspects of the process for the appointment of any Joint Strategic Director.
- (ii) The appointment of any Joint Strategic Director shall be subject to no material or well-founded objection to the making of an offer of appointment being received by the Leader of either Council on behalf of their respective Executives.
- (iii) To determine pension discretions relating to any Joint Strategic Director.
- (iv) To consider any financial settlement of an affected employee who is unsuccessful in respect of the selection and appointment of any Joint Strategic Director, and where necessary to make recommendations as appropriate for formal approval by each Council.

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<sup>2</sup> Section 151/Chief Finance Officer and Monitoring Officer

## **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

- (v) To be responsible for ad-hoc employment matters affecting any Joint Strategic Director post.
- (vi) To be responsible, subject to (vii) below, for any disciplinary action regarding any Joint Strategic Director.
- (vii) The dismissal of any Joint Strategic Director shall be subject to no material or well-founded objection to the proposed dismissal being received by the Leader of either Council on behalf of their respective Executives.

### **15.0 SERVICING THE JOINT SENIOR STAFF COMMITTEE**

The Joint Senior Staff Committee shall be serviced by staff as agreed between the Democratic Services Managers of each Council.

The Joint Senior Staff Committee will be supported by professional advisors including legal advisors or human resources advisors as appropriate. The views of such advisors must be taken into account.

### **16.0 MEETINGS OF THE JOINT SENIOR STAFF COMMITTEE SHALL BE CONDUCTED IN ACCORDANCE WITH THE FOLLOWING PROCEDURE:**

1. A meeting of the Joint Senior Staff Committee shall be summoned by the Joint Monitoring Officer who shall give a minimum of five clear working days' notice (or less in the case of urgency).
2. Meetings of the Joint Senior Staff Committee shall be held in public except in so far as the matters for decision relate to issues which can be dealt with in private in accordance with Section 100A (4) and (5) of the Local Government Act 1972 (as amended) and the Committee resolve to exclude the public.
3. The order of business at meetings of the Joint Senior Staff Committee shall include the following:
  - (a) Apologies for Absence and Substitute Members;
  - (b) Declarations of Interests;
  - (c) Agreement and adoption of the Minutes of the previous meeting;
  - (d) Matters set out in the agenda for the meeting;
  - (e) Matters not set out in the agenda for the meeting but which the chairman agrees pursuant to Section 100B (4) (b) of the Local Government Act 1972 (as amended) should be considered at the meeting as a matter of urgency.

## **GUILDFORD BOROUGH COUNCIL AND WAVERLEY BOROUGH COUNCIL JOINT GOVERNANCE COMMITTEE**

### **TERMS OF REFERENCE**

1. This Joint Committee is to be established by Guildford Borough Council and Waverley Borough Council ("the councils") in accordance with Section 101 (5) of the Local Government Act 1972 (Appointment of committees)
2. MEMBERS: 12

### **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

- (a) The Joint Governance Committee shall comprise the respective Leader of each council, plus five members appointed by Guildford Borough Council and five members appointed by Waverley Borough Council
  - (b) Appointments shall be made in accordance with the Local Government (Committees and Political Groups) Regulations 1990 in respect of each council.
- 3. **QUORUM:** 4 members in total, subject to each council being represented at a meeting by at least two of their members.
- 4. **CHAIR:** The Joint Governance Committee shall be chaired alternately between the councils by the Leader of the Council, hosting the meeting, or in their absence, the Leader of the Council not hosting the meeting, or in both Leaders absence, the Chair shall be appointed by a majority vote of those members present and voting.
- 5. **PLACE OF MEETINGS:** The venue for meetings of the Joint Governance Committee shall normally alternate between the two councils with the host Leader chairing the meeting, but the venue may be varied by the Joint Monitoring Officer following consultation with the Leader of each Council.
- 6. **GENERAL ROLE:** Adopting and exercising such of the functions of the councils as may be delegated by those councils in respect of the governance arrangements for inter-authority working between Guildford Borough Council and Waverley Borough Council.
- 7. **FREQUENCY OF MEETINGS:** As and when required, but at least bi-annually.
- 8. **SUBSTITUTES:** Substitutes may be appointed. The respective Group Leaders shall nominate an ongoing main substitute. Any appointed member of the Joint Governance Committee may be substituted by any other member of their political group on the council they represent.
- 9. **ROLE AND FUNCTION:**
  - (i) To undertake periodically a formal review (at least once every 12 months) of all inter-authority agreements, between Guildford Borough Council and Waverley Borough Council, ensuring they continue to be fit for purpose and recommending to both Full Councils any changes required.
  - (ii) To undertake periodically a formal review (at least once every 6 months) of the collaboration risk assessment, reviewing current and target impact and likelihood scores and making any changes to the list of risks and mitigating actions.
  - (iii) Notwithstanding (i) and (ii) above, to undertake a formal review of the inter-authority agreements or the collaboration risk assessment at such other time as may be determined by the Joint Committee.
  - (iv) To discharge any other functions that relate to the governance of the inter-authority working arrangements that may from time to time be delegated to the Joint Committee.

### **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

- (v) The Joint Governance Committee may arrange for the discharge of its functions by an Officer, of either Waverley Borough Council or Guildford Borough Council, and in doing so will set out clearly any limits upon such delegation.
  - (vi) The Joint Governance Committee may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
  - (vii) The Joint Governance Committee may establish a Sub-Committee consisting solely of Members of one Council to consider matters solely relating to that Council.
10. **SERVICING THE JOINT GOVERNANCE COMMITTEE:** The servicing of the Joint Governance Committee shall be agreed between the councils' Democratic Services Managers.
11. **MEETINGS OF THE JOINT GOVERNANCE COMMITTEE SHALL BE CONDUCTED IN ACCORDANCE WITH THE FOLLOWING PROCEDURE:**
- (a) A meeting of the Joint Governance Committee shall be summoned by the relevant Proper Officer of the Council who shall give a minimum of five clear working days' notice (or less in the case of urgency)
  - (b) Meetings of the Joint Governance Committee shall be held in public except in so far as the matters for decision relate to issues which can be dealt with in private in accordance with Section 100A (4) and (5) of the Local Government Act 1972 (as amended)
  - (c) The order of business at meetings of the Joint Governance Committee shall include the following:
    - (a) Apologies for Absence and notification of substitutes
    - (b) Disclosures of Interest
    - (c) Adoption of the Minutes of the previous meeting
    - (d) Matters set out in the agenda for the meeting
    - (e) Matters not set out in the agenda for the meeting but which the chairman agrees pursuant to Section 100B (4) (b) of the Local Government Act 1972 (as amended) should be considered at the meeting as a matter of urgency
  - (d) Any matter will be decided by a simple majority of those members of the Joint Governance Committee present and voting at the time the question was put. A vote shall be taken either by show of hands or, if there is no dissent, by the affirmation of the meeting. The chairman or person presiding shall have the casting vote.

## **PART 3 – TERMS OF REFERENCE OF COUNCIL, THE LEADER/EXECUTIVE AND COMMITTEES**

### **LICENSING COMMITTEE**

1. Except as otherwise provided in the Licensing Act 2003 and the Gambling Act 2005, all functions of the licensing authority prescribed by those Acts.
2. All other functions relating to licensing and registration in so far as they are the responsibility of the Borough Council as specified in Section B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).
3. All functions relating to health and safety at work in so far as they are the responsibility of the Borough Council as specified in Section C of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).
4. To determine any changes to taxi and private hire licence fees and charges on an annual basis, and to authorise statutory publication of the fees and charges.
5. To consider objections following the statutory publication of the fees and charges referred to in 4. above and to approve the final fees and charges.

### **LICENSING REGULATORY SUB-COMMITTEE**

Other than those matters prescribed by the Licensing Act 2003 and Gambling Act 2005, to determine contested licensing applications and disciplinary matters within the purview of the Licensing Committee in accordance with the Council's policies.

### **LICENSING SUB-COMMITTEE**

All relevant functions relating to licensable activities, as described in the Licensing Act 2003 and the Gambling Act 2005.

### **OVERVIEW AND SCRUTINY COMMITTEE (See Article 8 in Part 2 of this Constitution)**

### **PLANNING COMMITTEE**

1. All functions relating to town and country planning and development control in so far as they are the responsibility of the Borough Council as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).
2. All functions relating to:
  - (a) the stopping up or diversion of footpaths, bridleways or restricted byways affected by development;
  - (b) the extinguishment of public rights of way over land held for planning purposes; and
  - (c) trees and hedgerowsas specified in Section I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

## GUILDFORD BOROUGH COUNCIL MEMBERS OF THE EXECUTIVE

As required by the Executive Procedure Rules in Part 4 of this Constitution, the names, addresses and wards of the Leader together with the lead councillors appointed by the Leader to serve on the Executive, including their respective areas of responsibility, are set out in the table below.

Councillor	Areas of Responsibility
<p><b>Leader of the Council and Lead Councillor for Housing</b></p> <p>Councillor Julia McShane</p> <p>75 Applegarth Avenue Park Barn Guildford Surrey GU2 8LX</p> <p>(Westborough Ward)</p>	<p>Homelessness, Housing Advice, Landlord Services, Housing Maintenance and Repairs.</p>
<p><b>Deputy Leader of the Council and Lead Councillor for Regeneration</b></p> <p>Councillor Tom Hunt</p> <p>c/o Guildford Borough Council Millmead House Millmead Surrey GU2 4BB</p> <p>(St. Nicolas Ward)</p>	<p>Corporate Capital Projects, Housing Delivery, Regeneration, Economic Development and Transport.</p>
<p><b>Lead Councillor for Engagement and Customer Services</b></p> <p>Councillor Angela Goodwin</p> <p>27 Guildford Park Road Guildford Surrey GU2 7NA</p> <p>(Onslow Ward)</p>	<p>Communications and Engagement, Complaints, Ombudsman, Customer services, Case Management, Digital services, Freedom of Information, ICT and Business Systems.</p>
<p><b>Lead Councillor for Commercial Services</b></p> <p>Councillor Catherine Houston</p> <p>c/o Guildford Borough Council Millmead House Millmead Surrey GU2 4BB</p> <p>(Shalford Ward)</p>	<p>Building Control, Events, Heritage, Leisure and Off-Street Parking.</p>



**PART 3 – RESPONSIBILITIES OF LEADER AND LEAD COUNCILLORS (APPENDIX)**

Councillor	Areas of Responsibility
<p><b>Lead Councillor for Finance and Property</b></p> <p>Councillor Richard Lucas</p> <p>"Yorkstones" Horseshoe Lane Ash Vale GU12 5LS</p> <p>(Ash Vale Ward)</p>	<p>Finance and Accounting (General Fund/Housing Revenue Account), Internal Audit, Procurement, Revenues and Benefits, Property and Land Assets, Engineers and Facilities.</p>
<p><b>Lead Councillor for Community and Organisational Development</b></p> <p>Councillor Carla Morson</p> <p>11 Foxhurst Road Ash Vale GU12 5DY</p> <p>(Ash Vale Ward)</p>	<p>Careline, Community Grants, Community Safety including Community Safety Partnership, Disabled Facilities Grants, Adaptations, Family Support, Health, Safeguarding, Supporting Vulnerable people, migrants and refugees, Business Transformation, HR, Learning and Development, Payroll, Strategy, Policy and Performance, Programme Assurance, Risk Management and Business Continuity.</p>
<p><b>Lead Councillor for Environment and Climate Change</b></p> <p>Councillor George Potter c/o Guildford Borough Council Millmead House Guildford Surrey GU2 4BB</p> <p>(Burpham Ward)</p>	<p>Bereavement, Green Spaces, Parks, Countryside, Trees, Fleet Operations, Street Cleaning, Waste and Recycling, and Climate Change.</p>
<p><b>Lead Councillor for Regulatory and Democratic Services</b></p> <p>Councillor Merel Rehorst-Smith</p> <p>40 Norwood Road Effingham Surrey KT24 5NX</p> <p>(Effingham Ward)</p>	<p>Air Quality, Corporate Health and Safety, Emergency Planning, Environmental Health/Crime, Food Safety, Licensing, Private Sector Housing, Democratic Services, Elections, Executive and Civic Support, GDPR, Information Security, Governance, Legal, Overview and Scrutiny Support.</p>
<p><b>Lead Councillor for Planning</b></p> <p>Councillor Fiona White</p> <p>28 Ash Close Ash Surrey GU12 6AR</p> <p>(Ash Wharf Ward)</p>	<p>Planning Applications, Planning Enforcement, Planning Integration and Improvement, Planning Policy.</p>

Specific decision-making powers delegated to lead councillors are shown in the attached Appendix.

## GUILDFORD BOROUGH COUNCIL

### DELEGATION TO LEAD COUNCILLORS

#### NOTES ON DELEGATION

1. Any power conferred on a lead councillor shall, in his or her absence, be exercisable by the Leader of the Council.
2. The powers in this document are subject to the provisions of the Council's Constitution.
3. All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.
4. The exercise of a delegated power, duty or function shall:
  - (a) be in accordance with the Council's policies and criteria;
  - (b) not amount to a new policy or extension of or amendment to an existing policy;
  - (c) be in accordance with any special procedure or protocol; and
  - (d) be in accordance with the requirements of the Constitution.
5. References to any enactment, regulation, order or byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.
6. Any reference to any Act of Parliament includes reference to regulations, subordinate and EU legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.
7. Subject to any express instructions to the contrary from the Leader/Executive, any power to approve also includes the power to refuse and the power to impose appropriate conditions.
8. Delegation to lead councillors is subject to:
  - (a) the right of the Leader/Executive to decide any matter in a particular case; and
  - (b) any restrictions, conditions or directions of the Leader/Executive.
  - (c) notice of the lead councillor making a decision shall be published in the usual way in advance of the decision being made and such decisions shall when made be recorded in writing and published on the web site for public inspection
9. The lead councillor concerned may in any case in lieu of exercising his or her delegated powers refer to the Leader/Executive for a decision.
10. In exercising delegated powers, the lead councillor shall:
  - (a) take account of the requirements of the Constitution and shall address all legal, financial and other safeguards as if the matter were not delegated;

### PART 3 – RESPONSIBILITIES OF LEADER AND LEAD COUNCILLORS (APPENDIX)

- (b) exercise the delegation so as to promote the efficient, effective and economic running of the Council and in furtherance of the Council's visions and values; and
  - (c) shall, where and when appropriate, report back to the Leader/Executive as to the exercise of those delegated powers.
11. Except as otherwise expressly provided either within this document or by resolution of the Leader/Executive, the exercise of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place to take the action in the name of and/or on behalf of the Council.
  12. Where a power or duty is delegated to a lead councillor and the exercise of that power or duty is contingent upon the opinion of the Leader/Executive that particular conditions or factual circumstances exist, then the lead councillor in question has the power to determine whether or not those circumstances or conditions have been fulfilled in the name of and with the authority of the Leader/Executive.
  13. All enquiries about this document should be made to the Democratic Services and Elections Manager.
  14. All matters of interpretation in respect of delegations to lead councillors will be determined by the Monitoring Officer.
  15. If a matter is delegated to a lead councillor, but that delegation cannot be implemented, that should be reported to the Leader/Executive.
  16. Functions, matters, powers, authorisations, delegations, duties and responsibilities etc. within this document shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified.
  17. Any decision taken by a lead councillor shall be made in accordance with the Access to Information Procedure Rules and shall be subject to the call in procedure referred to in the Overview and Scrutiny Procedure Rules.
  18. Any Key (and other significant) decisions to be taken by Lead Councillors should be considered by the relevant Executive Advisory Boards prior to the formal consideration of such decisions and Lead Councillors shall have regard to any recommendations made by the Executive Advisory Boards.
  19. The scheme of delegation will be reviewed and approved annually at the first ordinary meeting of the Council after the Annual Meeting.

## **PART 3 – RESPONSIBILITIES OF LEADER AND LEAD COUNCILLORS (APPENDIX)**

### **GENERAL DELEGATION TO ALL LEAD COUNCILLORS**

Within their areas of responsibility, all lead councillors shall be authorised to take the following decisions on behalf of the Leader/Executive:

1. To approve the submission of bids for funding to external organisations (Minute No. EX75 – 2005-06).
2. To approve grants to external organisations within approved budgetary provision (Minute No. EX75 – 2005-06).
3. To approve documents for public consultation other than those concerning the Budget and Policy Framework (Minute No. EX75 – 2005-06).
4. To authorise the invitation of tenders for the continued provision of existing services within approved budgetary provision (Minute No. EX75 – 2005-06).

### **LEAD COUNCILLOR FOR CLIMATE CHANGE AND ENVIRONMENT**

5. In consultation with the Joint Strategic Director (Place), to consider and determine on the Council's behalf any future changes to governance arrangements in respect of the Surrey Hills AONB Partnership (Minute No. EX39 – 2007-08).
6. To approve all uses of Stoke Park, together with any concessions, including for the Surrey County Show (Minute No. EX75 – 2005-06).
7. Following consultation with local ward councillors, to approve responses to Surrey County Council in relation to any proposals to change the public rights of way network affecting Council-owned land (Minute No. EX75 – 2005-06).

### **LEAD COUNCILLOR FOR REGULATORY AND DEMOCRATIC SERVICES**

8. Authority to consider objections following the statutory publication of hackney carriage fare charts and to approve the final table of fares (Minute No. EX81 – 2012-13).
9. To approve changes in working group membership as and when required in circumstances where the Executive is the appointing body (EX7 – 2017-18).

### **LEAD COUNCILLOR FOR FINANCE AND PROPERTY**

10. To approve the write-off of debts up to £50,000 (Minute No. EX75 – 2005-06).

## GUILDFORD BOROUGH COUNCIL

### DELEGATION TO OFFICERS

#### NOTES ON DELEGATION

1. Save in respect of any statutory roles that are not capable of delegation and to any limitations included within this document, any power conferred on a subordinate officer shall be exercisable by any Joint Strategic Director within their area of responsibility or by the Joint Chief Executive.
2. All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.
3. The exercise of a delegated power, duty or function shall:
  - (a) be in accordance with the Council's policies and criteria;
  - (b) not amount to a new policy or extension of or amendment to an existing policy unless the officer has specific delegated authority to do so; and
  - (c) be in accordance with the requirements of the Constitution, including the Financial Procedure Rules and Procurement Procedure Rules and the delegations contained therein.
4. An officer to whom a power, duty or function is delegated may nominate or authorise another officer to exercise that power, duty or function in his/her name, provided that officer reports to or is responsible to the delegator. Such transfer of a delegated power must be in writing and communicated to the Monitoring Officer.
5. References to any enactment, regulation, order or byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.
6. Any reference to any Act of Parliament includes reference to regulations, subordinate and EU legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.
7. Where the exercise of powers is subject to prior consultation with another officer, that officer may give his or her views in general terms in advance to apply to any circumstances, to remove the need for consultation for each proposal, which should be in writing.
8. Subject to any express instructions to the contrary from the Council, Leader/ Executive or committee or sub-committee, any power to approve also includes the power to refuse and the power to impose appropriate conditions.
9. Delegation to officers is subject to:

- (a) the right of the Council, Leader/Executive, committee or sub-committee to decide any matter in a particular case if lawful and so allowed under this Constitution; and
  - (b) any restrictions, conditions or directions of the delegating body.
  - (c) routine notification, and consultation where appropriate, of local ward councillors.
10. The officer concerned may in any case in lieu of exercising his or her delegated powers refer to the Council, Leader/Executive, committee or sub-committee for a decision if lawful and so allowed under this Constitution.
11. In exercising delegated powers, the officer shall:
- (a) take account of the requirements of the Constitution and shall address all legal, financial and other safeguards as if the matter were not delegated;
  - (b) exercise the delegation so as to promote the efficient, effective and economic running of that Service Unit and the Council and in furtherance of the Council's visions and values;
  - (c) shall, where and when appropriate, report back to the Council, Leader/ Executive or appropriate committee or sub-committee as to the exercise of those delegated powers;
  - (d) ensure that any Key (and other significant) executive decisions to be taken under the scheme of delegation to officers are considered by the relevant Executive Advisory Boards prior to the formal consideration of all such decisions and that any recommendations made by the Boards are taken into account; and
  - (e) consult with, or notify, local ward councillors appropriately to ensure there is appropriate consultation and information exchange at a local level.
12. Except as otherwise expressly provided either within this document or by resolution of the Council, Leader/Executive, committee or sub-committee, the exercise and implementation of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place to take the action in the name of and/or on behalf of the Council.
13. The Monitoring Officer shall have the power, in consultation with the Head of Paid Service, to amend delegated authorities to reflect reorganisations, changes in job titles and vacancies, where said changes result in redistributing existing delegations and not the creation of new ones.
14. Any post specifically referred to below shall be deemed to include any successor post or a post which includes within the job description elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.

15. Any reference to a committee or sub-committee shall be deemed to include reference to a successor committee or sub-committee provided that the subject matter of a particular delegation can be found within the terms of reference of both the earlier and the successor committee or sub-committee.
16. Where a power or duty is delegated to an officer and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the officer in question has the power to determine whether or not those circumstances or conditions have been fulfilled in the name of and with the authority of the Council.
17. With respect to any reference to a delegation being exercised following consultation with any councillor, the decision is vested with the delegatee who shall be responsible and accountable for the decision. The delegatee is required to bring independent judgement to bear on the decision and the decision must not consist of the officer adding an imprimatur of approval to what a councillor has decided. If the councillor consulted disagrees with the delegatee, the matter should be referred to the Leader/ Executive for agreement to exercise such delegated power if lawful and so allowed under this Constitution.
18. All enquiries about this document should be made to the Democratic Services and Elections Manager.
19. All matters of interpretation in respect of delegations to officers will be determined by the Monitoring Officer.
20. If a matter is delegated to an officer, but that delegation cannot be implemented, that should be reported to the Council, Leader/Executive or other delegating committee or sub-committee, as appropriate.
21. Functions, matters, powers, authorisations, delegations, duties and responsibilities etc. within this document shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified.
22. The Joint Chief Executive may remove from an Officer at any time a power to take delegated decisions and upon doing so in writing shall within 24 hours notify the Monitoring Officer. If appropriate, the Joint Chief Executive shall also notify the Council of this removal of powers.
23. Any decision that is taken in exercise of these delegated powers shall be recorded in writing with reasons why the decision was taken and signed by the officer who made it.
24. All delegated decisions shall be a matter of public record unless containing exempt information under Schedule 12A to the Local Government Act 1972 and, in respect of executive decisions taken by officers under delegated powers, shall be available for inspection on the Council's website and at the Council's offices (including by access to the Council's website at the Council's offices) in accordance with Regulation 14 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

25. The Joint Chief Executive shall exercise the Council's responsibilities to maintain an adequate and effective system of internal audit of the accounting records and control systems and to suspend a member of staff from the workplace for up to 48 hours to enable investigations to be undertaken.



**RESPONSIBILITIES AND POWERS OF THE  
JOINT CHIEF EXECUTIVE/HEAD OF PAID SERVICE**

*The Council has designated Tom Horwood, Joint Chief Executive, as  
Head of Paid Service*

*(In their absence, a Strategic Director shall be appointed by the Joint Chief Executive to deputise for them in that capacity and as the Head of Paid Service)*

1. To report to the Council or the Leader/Executive on the manner in which the discharge of the Council's non-executive and executive functions are co-ordinated, the number and grade of officers required for the discharge of those functions and the organisation of officers.
2. In consultation with the Leader where practicable and the Monitoring Officer, to act in an emergency or in relation to matters of urgency in relation to any functions of the Council, subject to the use of this power being reported to the next meeting of the Council, Executive or committee concerned.
3. In consultation with the Leader and Monitoring Officer, to interpret and (if in an urgent or emergency situation) vary the provisions of the Constitution in the best interests of the Council, subject to the use of this power being reported to the next meeting of the Council, Executive or committee concerned as appropriate.
4. To exercise all functions relating to health and safety in the Council workplace.
5. To make changes to the allocation and composition of Services and Joint Strategic Director responsibilities including grading changes provided any grading changes are consistent with the Council's Pay Policy Statement.
6. In consultation with the Leader, to determine the annual salary increase to locally determined salary scales for grades below Joint Strategic Director level, provided that the cost of such is within the relevant overall budgetary provision.
7. To establish or re-organise the staffing structure in the Council.
8. To appoint, discipline, suspend and dismiss staff below Joint Strategic Director level.
9. In relation to staff at Joint Strategic Director level (but subject to Officer Employment Procedure Rules in Part 4 of this Constitution as regards Relevant Officers):
  - to make temporary appointments of no more than one year including acting up arrangements and secondments;
  - to dismiss at the end of temporary or fixed term contracts;
  - to make decisions on appraisals / incremental progression in accordance with Council policies.
10. In consultation with the Leader, to approve premature terminations of employment and settlement agreements for all posts below Joint Strategic Director level subject to the provisions of the pay policy statement.

11. To exercise the power of the Council to appoint appropriate members of staff as proper officer for any purpose in relation to any statutory function or to revoke such appointment.
12. To authorise, in accordance with the Council's policies and the provisions of relevant legislation, investigating officers to seek authorisation from the Magistrates Court to undertake covert surveillance (directed surveillance and covert human intelligence sources) when knowledge of confidential information is likely to be acquired or when a vulnerable individual or juvenile is to be used as a source.
13. To agree compensation payments as part of local settlements, including those in connection with complaints to the Local Government Ombudsman, or the Housing Ombudsman, up to a maximum of £5,000.
14. To act in the place of any officer having delegated authority under this scheme or to transfer any such power from one officer to another in writing, subject to any statutory restrictions.
15. To submit representations to the licensing authority in connection with relevant applications under the Gambling Act 2005 on behalf of the licensing authority.
16. To initiate the review by the licensing authority of premises licences of a particular class or a particular premises licence under Section 200 of the Gambling Act 2005.
17. To act as the Council's proper officer in respect of relevant functions specified in Annex I attached.
18. To undertake a formal review of a decision:
  - (i) by the Lead Specialist - Legal to include any land or property in the Council's list of assets of community value; and
  - (ii) by the Joint Section 151 Officer regarding the assessment of any compensation (Minute No. EX46 – 2012-13).
19. To approve revenue budget virements between cost centres relating to different services and within specific account categories but within the same service unit up to £100,000.
20. To approve revenue budget virements from any budget head within the employees category up to £100,000.
21. To approve revenue budget virements from between any service and any account categories between £100,001 and £200,000 in consultation with the appropriate lead councillor(s) and the lead councillor with responsibility for finance.
22. To approve capital budget virements for schemes on the approved capital programme between £100,001 and £200,000 in consultation with the appropriate lead councillor(s) and the lead councillor with responsibility for finance.

23. To extend a closure notice under the Anti-Social Behaviour, Crime and Policing Act 2014 to 48 hours.
25. To keep the Community Engagement Strategy document updated as circumstances require.
26. To agree to webcast such committee or sub-committee meetings as he shall determine, following consultation with the relevant chairman (Minute No. EX64: 2013-14).
27. To approve revised scales of fees for work in connection with the register of electors and elections.
28. To change the location of the Council's designated polling places and polling stations.
29. To create the register for use for a referendum for a neighbourhood development plan or neighbourhood development order (including community right to build order).
30. To hold a referendum on a neighbourhood development plan or neighbourhood development order (including community right to build order).
31. In consultation with the appropriate lead councillor, to agree and implement any future changes and updates to the Council's Complaints Policy and Procedure.
32. In consultation with the Leader of the Council, to amend service provision in accordance with the Council's statutory duties as these may be varied by the Coronavirus Act 2020, regulations and guidance made thereunder.
33. in consultation with the Leader of the Council, political group leaders, local ward councillor(s), and the Monitoring Officer, to make orders under Section 91 of the Local Government Act 1972 in circumstances where a parish council within the borough becomes inquorate, following the procedure approved by the Council on 4 March 2021.
34. To approve, subject to a business case, future temporary staff sharing arrangements between Guildford Borough Council and Waverley Borough Council, to support the collaboration and transformation programme.
35. To approve, where necessary, any human resources policies.

**RESPONSIBILITIES AND POWERS OF THE MONITORING OFFICER**

*The Council has designated Susan Sale as Monitoring Officer.*

*(Statutory duties of the Monitoring Officer must be carried out personally, but may be carried out by the Monitoring Officer's nominated deputies (Claire Beesly and John Armstrong) in cases of absence or illness or where she considers that, in relation to any matter referred to her under the provisions of Part 1 Chapter 7 of the Localism Act 2011, she herself ought not to perform particular functions.)*

1. To maintain an up-to-date version of the Constitution and ensure that it is widely available for consultation by councillors, staff and the public.
2. To contribute to the corporate management of the Council, in particular through the provision of professional legal and ethical advice.
3. After consultation with the Head of Paid Service and Chief Finance Officer, to report to the full Council or to the Executive in relation to a non-executive or an executive function (as appropriate) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. (Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.)
4. To contribute to the promotion and maintenance of high standards of conduct through provision of support to the Corporate Governance and Standards Committee.
5. To establish and maintain a register of interests of the members and co-opted members of the authority.
6. To make all necessary arrangements to comply with the Council's responsibilities and arrangements for dealing with allegations of misconduct by councillors and co-opted members as set out in Part 5 of this Constitution.
7. To grant dispensations to councillors and co-opted members where the Monitoring Officer considers:
  - (i) that so many members of the decision-making body have disclosable pecuniary interests in a matter that it would impede the transaction of the business; or
  - (ii) that, without a dispensation, no member of the Executive would be able to participate on a particular item of business.
8. To advise whether decisions of the Leader/Executive are in accordance with the budget and policy framework.
9. To 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.
10. To act as the Council's proper officer in respect of relevant functions specified in Annex I attached.

11. In consultation with the appropriate lead councillor and chairman of the Corporate Governance and Standards Committee, to make future amendments to the Covert Surveillance Policy.
12. To act as one of the Council's official Authorising Officers for covert surveillance operations.
13. To convene, where necessary, an Independent Panel, as provided for in the Officer Employment Procedure Rules.
14. To make such minor amendments to the Whistleblowing Policy as they deem appropriate for the purpose of keeping it up to date.

### **RESPONSIBILITIES AND POWERS OF THE CHIEF FINANCE OFFICER**

*The Council has designated Richard Bates, Interim Executive Head of Finance, as Chief Finance Officer*

*(Statutory duties of the Chief Finance Officer (apart from the administration of the Council's financial affairs) must be carried out personally but may be carried out by his nominated deputy in cases of absence or illness.)*

1. After consultation with the Monitoring Officer, to report to the full Council or to the Executive in relation to a non-executive or an executive function (as appropriate) and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
2. To be responsible for the administration of the financial affairs of the Council.
3. To contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
4. To 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 support and advise councillors and officers in their respective roles.
5. To provide financial information to the media, members of the public and the community.
6. To determine the Council's accounting records (including the form of accounts and supporting accounting records) and the accounting control systems.
7. In connection with the calculations to set the council tax, to report on:
  - (a) the robustness of the estimates made for the purpose of the calculations; and
  - (b) the adequacy of financial reserves.
8. In consultation with the appropriate lead councillor, to approve expenditure to be funded from the Invest to Save Fund.

9. To act as the Council's proper officer in respect of relevant functions specified in Annex I attached.
10. In consultation with the Leader of the Council and the lead councillor with responsibility for finance, to agree the treatment of any year-end balance.
11. To adjust the Council's approved General Fund capital programme and the Housing Investment Programme to carry forward any unspent balances where a project has been delayed.
12. To vire repairs and maintenance budgets within the overall budget provision.
13. To implement the Council's borrowing and investment strategies including setting and maintaining the Council's counterparty list.
14. To approve the carrying forward of underspent budgets and the virement of expenditure in accordance with the Council's Financial Procedure Rules.
15. To approve the expenditure of earmarked reserves and provisions for defined uses in accordance with the Council's agreed policy.
16. In consultation with the appropriate lead councillor, to determine and adopt the council tax base each year.
17. To make appropriate compensation payments for minor reinstatement works as a result of land drainage and sewerage schemes.
18. To make reduced charges for the clearance of blocked drains in all cases of severe hardship.
19. To determine the rents for caretakers' accommodation each year in line with the annual salary award.
20. To raise in line with inflation any financial limits specified in delegations to officers, Procurement Procedure Rules or Financial Procedure Rules.
21. To grant discretionary relief from debts up to £1,000 in cases of extreme hardship or for goodwill or over-riding business reasons.
22. To write-off debts in accordance with the limits set out in Financial Procedure Rules.
23. To refund overpayments in accordance with Financial Procedure Rules.
24. To apply for external funding and grants and to certify grant claims and make payments where these are of a statutory nature or within approved budgetary provision.
25. Where confirmation of specific grant income is received after the setting of the revenue or capital budget for the year, to approve, in consultation with the appropriate lead councillor and the lead councillor with responsibility for finance, amendments to the general fund or HRA budgets during the year to incorporate both the grant income and

relevant expenditure (net effect on budget to be nil) and to work with the relevant service leader to ensure the grant or external funding is spent in line with the conditions (if any) attached to it.

26. In consultation with the appropriate lead councillor, to approve revised criteria and operational arrangements for the Concurrent Functions Grant Aid Scheme.
27. In consultation with the appropriate lead councillor, to extend the deadline for up to one year, in exceptional circumstances, for parish councils to claim concurrent functions grants.
28. In consultation with the appropriate lead councillor, to agree concurrent functions grants for urgent schemes identified within a financial year, provided there is sufficient funding available from grant aid no longer required in respect of approved schemes.
29. To estimate and declare the surplus or deficit (as appropriate) on the Collection Fund on or before 15 January each year.
30. In consultation with the Lead Councillor with responsibility for finance, to maximise the use of approved General Fund Capital Programme and approved Housing Investment Programme budgets, including bringing forward of schemes or phases on the approved programme for future years.
31. To undertake the day-to-day management of the Council Tax Collection Fund's transactions and their related calculations as required by the Local Government Finance Act 1988 (as amended by the Local Government Finance Act 1992).
32. To determine the Precept Schedule of Payment Dates as required by the Local Government Finance Act 1992.
33. To determine changes to an employee's contribution rate pursuant to Regulation 9(3) of the Local Government Pension Scheme Regulations 2013.
34. To authorise moving up to £200,000 from capital projects on the provisional capital programme to the approved capital programme where a business case has been submitted by the responsible officers.
35. To approve revenue budget virements between cost centres relating to the same service and within specific account categories up to £100,000 in consultation with the relevant Director or service leader.
36. To approve capital budget virements for schemes on the approved capital programme up to £100,000 in consultation with the appropriate lead councillor(s) and the lead councillor with responsibility for finance.
37. To approve any changes to existing financial systems and to approve any new systems before they are introduced.
38. In consultation with the lead councillor with responsibility for finance, to approve expenditure to be financed from the Investments' Capital Movements reserve.

39. In consultation with the lead councillor with responsibility for finance, to approve the amount of any transfer to the Investment Property Rent reserve as a result of rent review income above that included in the relevant years' estimates.
40. In consultation with the lead councillor with responsibility for finance, to determine the financing arrangements, including the interest rate applicable to any loans with reference to the Bank of England base rate, granted to North Downs Housing Ltd by the Council.
41. To authorise expenditure from the Council's capital contingency fund for new capital projects up to a maximum gross project cost of £100,000 and for existing approved capital projects up to a maximum of 20% of the gross project cost or £200,000 whichever is the lower amount in accordance with the Council's financial procedure rules for capital virements.
42. In consultation with the Lead Councillor with responsibility for finance, to approve expenditure from the Council's Budget Pressures, Business Rates Equalisation and LABGI reserves.
43. in consultation with the Lead Councillor with responsibility for finance, to make changes to the Treasury Management Practices.
44. To act as one of the Council's official Authorising Officers for covert surveillance operations.
46. In consultation with the Joint Strategic Director (Community Wellbeing), to make monthly payments to the Guildford Borough Tenants' Action Group to cover sundry running expenses.
47. To authorise investigation staff to gather information from employers, banks, and other financial institutions, relating to open and properly authorised and valid investigations.
48. To determine the validity of claims for compensation made to the Council, together with any ancillary matters, under Section 99 of the Localism Act 2011, and to make payments as appropriate.
49. To authorise investigating officers to seek authorisation from the Magistrates Court to undertake covert surveillance (directed surveillance and covert human intelligence sources) in accordance with the Council's policies and the provisions of relevant legislation.

**POWERS RESERVED TO JOINT STRATEGIC DIRECTORS**

1. Within approved budgets, and in line with the Financial Procedure Rules, where appropriate:
  - (a) to determine all employment matters relating to staff graded at service leader or below, including all grading, incremental and market provision issues and the payment of honoraria, unless otherwise provided in the Council's policies;



- (b) to establish or re-organise the staffing structure within their area of responsibility; to appoint, suspend, discipline and dismiss staff within their area and to authorise officers reporting directly to them to appoint, discipline and dismiss staff in accordance with the Council's policies;
- (c) to create additional posts graded below Band 6 as may be required to achieve the Council's agreed level of service;
- (d) to approve variations to the Council's establishment;
- (e) to approve appropriate revised grading levels for posts where the existing salary grade is not sufficient to recruit an officer of the required calibre in accordance with the Council's policies.

**GENERAL DELEGATION TO ALL JOINT STRATEGIC DIRECTORS, EXECUTIVE HEADS OF SERVICE, AND SERVICE LEADERS**

1. To act in accordance with the Council's Procurement and Financial Procedure Rules.
2. To undertake the day-to-day management and operation of staff reporting to them and of the premises and services for which they are responsible in accordance with the policies and procedures laid down by the Council, including:
  - (a) incurring expenditure within approved budgetary provision,
  - (b) authorising the procurement or commissioning of works, goods and services
  - (c) entering into contracts (in consultation with the relevant Lead Councillor where the value is above £200,000), memoranda of understanding or other arrangements,
  - (d) promoting and publicising those services, and
  - (e) ensuring there is regular and appropriate dialogue undertaken between officers and relevant local ward councillors with regard to service delivery and delegated decision making
3. To submit applications for planning permission, or other consents, required in connection with approved schemes or programmes.
4. To control, purchase and dispose of any vehicles, stores, material or equipment on the best terms obtainable.
5. To determine charges for the use of relevant services and events not covered by the annual review of fees and charges.
6. To carry out planning and operations in partnership with appropriate statutory and voluntary agencies as may be required by government regulations or advice or Council policies and, where appropriate, to enter into agreements with those agencies.
7. To authorise officers to undertake consultations in the discharge of their responsibilities.

8. To authorise the employment of consultants within approved budgetary provision.
9. To serve requisitions for information under any legislation within the purview of the Council.
10. To authorise officers for the purposes of issuing fixed penalty notices under any legislation within the purview of the Council.
11. To carry out minor development for which planning permission is not required, provided that the specific expenditure has been authorised.
12. To authorise officers to carry out overt surveillance and inspections, take samples, enter premises, form opinions and take any other necessary action as may be required by law or in accordance with the Council's functions and policies.
13. To authorise officers to obtain warrants authorising entry to property under the provisions of any legislation within the purview of the Council.
14. To sign and serve documents on behalf of the Council.
15. To serve statutory notices on behalf of the Council.
16. To deal with all matters relating to the undertaking of works in default in accordance with the provisions of any legislation within the purview of the Council.
17. To authorise the attendance of councillors and officers at conferences, courses and seminars.
18. To make decisions on performance reviews/incremental progression in accordance with Council policies.
19. To exercise the power of the Council to appoint appropriate members of their staff as proper officer for any purpose in relation to any statutory function for which their service is responsible or to revoke such appointment.
20. To consider complaints from members of staff in accordance with the Council's Grievance Procedure and policies and take appropriate action.
21. To authorise the carrying forward of annual leave of staff from one year to the next in accordance with Council policies.
22. To grant leave of absence without pay for periods not exceeding three months and special leave with pay on compassionate grounds.
23. In consultation with the appropriate lead councillor, to respond to all consultation papers on the Council's behalf.
24. To act as the Council's proper officer in respect of relevant functions specified in Annex I attached.

25. To offer a small and appropriate non-financial gesture to a complainant in appropriate cases following an investigation under the Council's Complaints Policy and Procedure.
26. To approve in year variations to fees and charges in consultation with the Lead Specialist - Finance, subject to there being no negative ongoing budgetary implications.
27. To approve revenue budget virements between cost centres relating to the same service and within specific account categories up to £100,000 in consultation with the Chief Finance Officer.
28. To act in accordance with the Council's ICT Policies: Manager Policies.

### **JOINT STRATEGIC DIRECTOR: TRANSFORMATION & GOVERNANCE**

#### **Joint Executive Head of Finance**

1. In consultation with the Joint Strategic Director: Community Wellbeing, to make monthly payments to the Guildford Borough Tenants' Action Group to cover sundry running expenses.
2. To authorise investigation staff to gather information from employers, banks, and other financial institutions, relating to open and properly authorised and valid investigations.
3. To determine the validity of claims for compensation made to the Council, together with any ancillary matters, under Section 99 of the Localism Act 2011, and to make payments as appropriate.
4. To authorise investigating officers to seek authorisation from the Magistrates Court to undertake covert surveillance (directed surveillance and covert human intelligence sources) in accordance with the Council's policies and the provisions of relevant legislation.

#### ***Lead Specialist – Finance***

1. In consultation with the appropriate service leader, to adjust fees and charges in the event of changes in the level of value added tax.
2. To do all things necessary to seek repayment of monies debts or loans to the Council including interest thereon.
3. To approve in year variations to fees and charges, in consultation with the relevant Joint Director or relevant Joint Executive Head of Service or service leader, subject to there being no negative ongoing budgetary implications.
4. To add expenditure to the approved capital programme where it is fully financed by grant, s106, SPA and CIL receipts and the project has been approved by the appropriate lead councillor and the relevant Joint Director or relevant Joint Executive Head of Service or service leader.

5. To approve the form of official orders and associated terms and conditions.
6. To determine petty cash limits.
7. To enter into any arrangements with a creditor or debtor of the Council for payment to be made by way of instalments and any other special arrangements.
8. To refund overpayments in accordance with Financial Procedure Rules.
9. To determine the local average interest rates for local authority mortgages.
10. In connection with the right to buy scheme, to allow tenants to leave on mortgage an amount in excess of that specified in regulations made by the Secretary of State in appropriate cases, such amount not to exceed the aggregate purchase price and the Council's mortgage costs.
11. To pay all accounts properly authorised.
12. To determine the Council's banking arrangements including such overdrafts as may be necessary.
13. To make arrangements for the secure collection and banking of income paid to any of the Council's establishments.
14. In consultation with the Joint Strategic Director Community Wellbeing and the lead councillor with responsibility for finance, to decide on the scheme criteria for applications for flooding and resilience grants and reliefs, such criteria to be in accordance with applicable government guidance and limited to sums that may be recouped in full from the government.
15. To make awards of flooding and resilience grants and reliefs for as long as the government fully reimburses the Council.

***Lead Specialist - Revenues and Benefits***

1. To take all necessary action to implement the provisions of the Local Government Finance Act 1992 and any subsequent legislation in respect of the administration, collection, enforcement and discretionary elements of council tax.
2. To take all necessary action to implement the provisions of the Local Government Finance Acts 1988 and 1992 and any subsequent legislation in respect of the administration, collection, enforcement and discretionary elements of non-domestic rates.
3. To take all necessary action to implement the provisions of the Local Government Act 2003 and any subsequent legislation in respect of the administration, collection, enforcement and discretionary elements of the Business Improvement District.
4. Where appropriate, to exercise the delegations regarding discretionary elements of council tax, business rates and business improvement districts referred to in 1. 2. and

3. above in consultation with the Chief Finance Officer and lead councillor with responsibility for finance.
5. To authorise staff to represent the Council in the Magistrates Court in the course of enforcing council tax, business rates and business improvement district debts.
6. To consult non-domestic rate payers in accordance with the National Non-Domestic Rates Rate Payers (Consultation) Regulations.
7. To determine applications for, and pay, housing benefit, council tax benefit and local council tax support.
8. To determine and grant discretionary housing payments under the scheme set out in the Discretionary Financial Assistance Regulations 2001 and to ensure expenditure does not exceed the amount permitted in the Discretionary Housing Payments (Grants) Order 2001.
9. To take all necessary action to recover overpayments of housing benefit, council tax benefit and local council tax support.
10. To grant mandatory and discretionary relief from non-domestic rates to charities and not-for-profit organisations.
11. To grant discretionary relief from all or part of non-domestic rates for shops in rural settlements.
12. In respect of the non-payment of monies or debts to take all such action as may be necessary to recover such monies.
13. In consultation with the Chief Finance Officer, to grant discretionary relief from debts in cases of extreme hardship or for goodwill or over-riding business reasons.
14. In consultation with the Chief Finance Officer and appropriate lead councillors, to conduct Local Council Tax Support Scheme consultations.
15. In consultation with the Chief Finance Officer and appropriate lead councillors, to approve the detailed criteria to be used in the Local Council Tax Support Scheme (LCTSS) hardship fund.
16. To approve payments from the LCTSS hardship fund

**Joint Executive Head of Legal and Democratic Services**

1. To act as the Council's Senior Responsible Officer for covert surveillance operations.
2. To schedule regular meetings, as required, simultaneously of the Guildford Borough Council and Waverley Borough Council Executives, in consultation with the Leaders of both Councils.

***Lead Specialist - Legal***

1. Subject to being satisfied as to the evidence, to institute, conduct and settle legal proceedings on behalf of the Council in any court of law, tribunal, or other body (including all administrative and ancillary acts incidental thereto).
2. To accept service of and defend legal proceedings on behalf of the Council.
3. To authorise officers to appear on the Council's behalf in proceedings before the courts.
4. To sign all legal documents including executing documents under seal relating to the disposal or acquisition by the Council of any land, property or interests in land, the supply of goods or services or the recovery of monies.
5. To obtain the opinion of counsel or external solicitors on any question concerning the Council's business and to instruct counsel, solicitors, or London Agents to represent the Council in any form of proceedings.
6. To enter into agreements and bonds with developers in accordance with planning and highways legislation and to take all necessary action to secure compliance with such agreements or bonds.
7. In consultation with the relevant Lead Councillor with portfolio responsibility for development control, to vary the terms of agreements made with developers in accordance with planning and highways legislation.
8. To pay compensation for discontinuance and revocation orders provided such compensation is within approved estimate provision.
9. In consultation with the Joint Strategic Director Place, to determine all applications made under Section 17 of the Land Compensation Act 1961.
10. To administer all matters and have full discretion on fees and determine any public path diversion and stopping-up proposals or temporary road closures.
11. In consultation with the Joint Strategic Director Place to enter into such contracts, agreements, memorandums of understanding or other legal or quasi legal documents on behalf of the Council as may be required for the furtherance of the aims of the Thames Basin Heaths Special Protection Area Avoidance Strategy.
12. In consultation with the appropriate lead councillor and Lead Specialist – Finance, to appropriate land on the Council's housing estates to open space or for planning purposes.
13. In consultation with a small panel comprising the appropriate lead councillor and the local ward councillor(s), to consider and determine applications under the Localism Act 2011 for buildings and other land to be listed as land of community value, together with any ancillary matters.

14. In consultation with the Lead Specialist - Finance to complete any documentation pursuant to the submission of charitable accounts to the Charity Commission.
15. In consultation with political group leaders, to approve the timetable of Council and Committee meetings.

***Democratic Services and Elections Manager***

1. In connection with the Licensing Act 2003 and Gambling Act 2005:
  - (a) to agree to dispense with a Licensing Sub-Committee hearing where all parties agree that a hearing is unnecessary;
  - (b) following consultation with any designated Licensing Sub-Committee chairman, to adjourn a Licensing Sub-Committee hearing; and
  - (c) following consultation with any designated Licensing Sub-Committee chairman, to extend a time limit in respect of a Licensing Sub-Committee hearing where necessary in the public interest.
2. In consultation with the Leader of the Council and Group Leaders, to make appointments:
  - (a) to fill vacancies remaining on outside organisations following the quadrennial appointments agreed by the Council; and
  - (b) to such other outside organisations of which the Council becomes aware during the course of the year.
3. To determine uncontested appointments of councillors to external organisations.
4. In consultation with the Leader and the chairman of the Overview and Scrutiny Committee, to make arrangements for the deferred publication of the list of decisions and extension of the call-in period in cases where it is not possible to publish the list on the day after the meeting of the Executive.
5. In consultation with the Leader of the Council and the Mayor,
  - (a) to determine future requests for permission to use the coat of arms comprising the shield and motto only, applying the following criteria when considering applications:
    - (i) That the Council will normally only consider requests from organisations that are categorised in at least one of the following types of organisation:
      - local sports clubs
      - local cultural organisations
      - local educational institutions
      - local voluntary/charitable organisations
      - local churches
    - (ii) That organisations be required to demonstrate that they operate principally within the borough or attract their membership mainly from borough residents.

- (iii) That organisations be required to demonstrate that the proposed use of the coat of arms enhances the reputation of the Council.
  - (iv) That we will not permit the coat of arms to be used for any commercial purposes as we would not wish the association with the Council to be deemed as an endorsement of a product or service.
  - (v) That, where permission is granted, the coat of arms must be:
    - (a) used in its true and original form, without any changes;
    - (b) used at a size suitable to make its use meaningful;
    - (c) acknowledged by the user, wherever the coat of arms is displayed by them, that it is a trademark belonging to Guildford Borough Council.
- (b) to grant, where appropriate, a licence for such use on such terms and conditions as he may consider necessary including a fee to cover the Council's legal costs.

***Data Protection Officer***

1. To act as one of the Council's official Authorising Officers for covert surveillance operations.
2. To coordinate the Council's compliance with Data Protection legislation.
3. In consultation with the relevant Lead Councillor, to keep the following policies under review and to approve such updates to these policies and associated supplementary policies, as considered appropriate:
  - Information Systems Security Policy
  - Data Protection Policy
  - Data Breach Response and Notification Procedure

**Joint Executive Head of Organisational Development**

1. To undertake activities necessary to meet the Council's responsibilities in respect of relevant Sustainable Energy and Climate Change legislation.
2. In consultation with the appropriate lead councillor, to make such minor amendments to the Economic Development Strategy and delivery plan as deemed appropriate.

***Lead Specialist - HR***

1. In conjunction with the Lead Specialist - Finance, to interpret and implement salary and wage awards, including their backdating, and alterations to conditions of service for all staff.
2. To administer and make minor amendments to the Council's car leasing scheme within approved budgetary provision.
3. In consultation with the Leader of the Council and Head of Paid Service, to determine



changes in the levels of payment for relocation expenses and allowances for newly appointed staff, such changes to generally reflect inflation since the previous alteration was approved.

4. In conjunction with the Joint Strategic Director Community Wellbeing and Lead Specialist - Finance, to administer all aspects of staff housing schemes, including the nomination of appropriate employees.
5. In consultation with the Leader of the Council, to determine detailed aspects of pension schemes, subject to major issues being submitted to the Council.
6. To determine annual lump sum allowances for all officers on the basis agreed by the Council.
7. In consultation with the Corporate Management Board, to agree holiday arrangements during the Christmas period in accordance with local conditions of service.
8. To determine any amendments to the list of politically restricted posts.
9. To make minor amendments to the Council's Local Disciplinary Policy, Local Grievance Policy, Redundancy Policy and Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 Policy Statement, Local Government Pension Scheme Discretions Policy or other Human Resources policies to reflect any relevant changes to employment legislation.
10. To make changes to human resources procedures that are operational in nature (but not to include changes to policies that confer benefits on staff).
11. In consultation with the appropriate lead councillor and the Corporate Management Board, to give due consideration to any further comments received from groups and individuals that represent the interests of those protected by the current equality legislation on the adopted Single Equality Scheme and to make such amendments to the Scheme as may be deemed appropriate from time to time.
12. In consultation with the appropriate lead councillor and Corporate Management Board, to make such minor amendments to the Equality and Diversity Policy Statement as may be deemed necessary.
13. In consultation with the Leader of the Council or Lead Councillor with responsibility for finance, Joint Chief Executive and the Chief Finance Officer, to make decisions and exercise discretions involving enhanced entitlements under the Local Government Pension Scheme for officers below Joint Director level; to include flexible retirement and enhanced entitlement on redundancy/efficiency of service dismissals.
14. To provide the Council's payroll service, including the enforcement of HMRC compliance advice and any ancillary payroll related services, such as salary sacrifice schemes.
15. To provide all necessary insurance cover and to settle insurance claims.
16. To write-off overpayments of wages and salaries.

17. To administer all aspects of the Council's Car Loan Scheme.

**Joint Executive Head of Commercial Services**

1. To oversee the operation of Guildford Spectrum, Guildford Lido and Ash Manor Sports Centre by the Council's appointed contractor.
2. In consultation with the appropriate lead councillor and the Lead Specialist - Finance, to recommend to the Council's appointed leisure management contractor the variation of all charges (except those defined as "social charges") and the opening hours of Guildford Spectrum, the Lido and Ash Manor Sports Centre.
3. In consultation with the Chief Finance Officer and the appropriate lead councillor, to agree any project to be funded from any surplus generated from the Leisure Partnership Agreement, up to a maximum of £50,000.
4. To authorise lessees to display appropriate temporary advertising material.
5. In consultation with the relevant ward councillor and the Chief Finance Officer, add a new scheme to the General Fund Capital Programme, or amend approved schemes, up to a total value of £40,000 per scheme where the scheme is to be fully funded from s106 contributions and the contribution is in hand.
6. To manage, operate and hire out (including the setting of fees) all relevant Council facilities, including Guildford Museum, Guildford House Gallery, and the Guildhall and to manage tourism and business-related functions.
7. To accept items into the Guildford Borough Council museum and gallery collections.
8. In consultation with the appropriate lead councillor, to make such amendments to the Heritage Services Forward Plan, policies and policy statements as may be necessary to fulfil any changing requirements of Museum Accreditation, or relevant legislation, during the life of the phase 2 standard, for Guildford Museum and Guildford House Gallery.
9. To manage and operate the Council's car parks in accordance with the Council's agreed policies.
10. To manage and operate on-street parking controls on behalf of and by agreement with Surrey County Council.
11. To operate on-street permit parking schemes in accordance with the relevant traffic regulation order and policies.
12. To close all or part(s) of off-street car parks and on-street parking places for special events and circumstances and to suspend parking charges.
13. To require specific information from drivers of vehicles who appear to have contravened off-street and on-street parking places orders.
14. To obtain information from the DVLA about the registered keeper of vehicles which have

received Penalty Charge Notices and to process Penalty Charge Notices in accordance with the law and policy, including cancelling penalty charges where the circumstances warrant it.

15. To agree, in consultation with the appropriate lead councillor, the introduction of special off-street parking offers for limited agreed periods of time to help promote the town and support businesses.
16. To manage and operate the Council's park and ride sites in accordance with Council policy and to work with Surrey County Council to deliver park and ride services in accordance with agreed policies.
17. To manage and operate markets within the Borough in accordance with the Council's agreed policies.
18. In consultation with the appropriate lead councillor and the Lead Specialist – Finance, and with the agreement of Surrey County Council, to offer a free Saturday park and ride service at suitable and appropriate times of the year when most likely to offer the maximum support to the town centre economy.
19. To publish notices and make orders in relation to the Council's car parks in accordance with agreed policies.
20. In consultation with the appropriate lead councillor, to consider objections to proposed amendments to the off-street parking order.
21. Subject to the receipt of all other necessary consents, to determine applications to hold events in parks, open spaces and recreational facilities (EX19 – 2012/13).
22. To determine applications for any event or activity appropriate to the use of land owned by the Council on behalf of a parish council (EX19 – 2012/13).
23. To promote sporting, recreational, cultural, and community activities, including the negotiation of sponsorship arrangements.
24. To take all necessary action to maintain and protect the Council's interests in relation to proposals for local events and activities in the Borough.

#### Building Control

25. To determine all building regulations applications and related matters.
26. To take all necessary action to secure compliance with building regulations, including the service of statutory notices and institution of legal proceedings.
27. To exercise the Council's powers for control of demolition.
28. To institute any action necessary to secure buildings against unauthorised entry.
29. To take appropriate action in the exercise of the Council's powers regarding buildings,

structures, sites, earthworks, demolitions and trees that present risks to safety, health or amenity, including the service of notices, court proceedings, the instigation of emergency work and the recovery of expenditure.

**General**

30. To act as responsible officer in relation to the Guildford Community Lottery licence with the Gambling Commission.
31. To make all necessary arrangements for administering the Guildford Community Lottery.
32. To review and adjust fees and charges relating to advertising display banners.
33. To deal with filming requests as deemed appropriate by the nature and location of the request.
34. To participate in the partner authority scheme for local authority building control services.
35. To prepare, in accordance with The Building (Local Authority Charges) Regulations 2010, an annual statement in respect of the building control service for submission and approval by the Council's Chief Finance Officer, which sets out with regard to each financial year necessary financial information.
36. In consultation with the appropriate lead councillor, to review and adjust the level of charges set under the Building Control charging scheme and to publicise any amendments to the scheme, as required by The Building (Local Authority Charges) Regulations 2010.

**JOINT STRATEGIC DIRECTOR: COMMUNITY WELLBEING**

1. To deal with all matters relating to the management, maintenance and improvement of land property and other assets held within the Housing Revenue Account. This includes:
  - (a) authorising action to enforce a breach of any conditions and/or terms of a tenancy, licence or lease agreement
  - (b) authorising the institution of any relevant legal proceedings
  - (c) entering into any agreements with third parties for the purposes of managing, maintaining and improving any asset held within the Housing Revenue Account
  - (d) making any decision necessary to comply with the Council's obligations to secure tenants in compliance with relevant prevailing legislation of contractual term under any relevant agreement
  - (e) determining all requests for consents required under the terms of a relevant agreement including leases, transfers and tenancy agreements
  - (f) taking all necessary steps to provide new residential properties and associated assets within the approved budget for such purposes. This includes entering into all necessary agreements with third parties, including statutory and government bodies and demolishing properties
  - (g) negotiating the abortive costs in the event of a transaction not proceeding in

- circumstances where the Council has a liability to pay costs.
- (h) granting licences, easements, rights of way and wayleaves over land held in the Housing Revenue Account.
2. In consultation with the appropriate lead councillor and Lead Specialist - Finance, to adjust up to 20% of the value of the approved capital and revenue housing programmes to maximise use of approved budgets.
  3. In consultation with the appropriate lead councillor and appropriate ward councillor(s), to sell land and buildings held in the Housing Revenue Account up to 0.2 hectares in area, subject to:
    - (a) being satisfied that the Council will receive the best consideration reasonably obtainable, and
    - (b) the purchaser paying all the Council's costs in relation to the sale
  4. To set service charges for the provision of goods, services and works in respect of Council owned land and property held within the Housing Revenue Account and to make in-year adjustments to achieve appropriate cost recovery.
  5. In consultation with the Lead Specialist - Finance and the appropriate lead councillor, to update the HRA Business Plan as required in response to minor changes issued by the government.
  6. To authorise purchases of land and buildings for the Housing Revenue Account up to £12 million, in consultation with the Chief Finance Officer, Leader of the Council and the lead councillors with responsibility for housing and finance where budget provision exists on the approved housing capital programme.
  7. In consultation with the Chief Finance Officer, to review and adjust capital and revenue housing programmes to maximise use of approved budgets.
  8. In consultation with the Chief Finance Officer, to submit opportunity applications for any borrowing approvals or funding which would benefit the Council, subject to the outcome being reported to the lead councillors with responsibility for finance and housing.
  9. To respond to requests for assistance from the UK Border Agency.
  10. To repurchase any sold former Council owned flats or houses to facilitate redevelopment subject to this being within budgeted capital provision.
  11. In consultation with the appropriate lead councillor, to agree any future changes to the housing strategy action plan.
  12. To exercise the Council's powers and functions in relation to the promotion of health, community care and related policies.
  13. In consultation with the appropriate Lead Councillor, to give consent to future community sponsorship applications as part of the vulnerable persons resettlement scheme, subject

to them meeting Home Office criteria.

**Joint Executive Head of Environmental Services**

1. To manage and operate the Council's public conveniences, including the determination of opening hours.
2. To determine and make adjustments to the scale of charges for cesspool emptying and night soil collection to improve competitiveness.
3. In consultation with the appropriate lead councillor and Lead Specialist - Finance, to determine the charging structure for trade waste including applications for exemption from payment.
4. In consultation with the appropriate lead councillor and Lead Specialist - Finance, to vary charges for refuse collection services.
5. In consultation with the appropriate lead councillor and Lead Specialist - Finance, to revise periodically the charging arrangements for garden waste collection services.
6. In consultation with the Lead Specialist – Finance, to make variations to MOT testing fees.
7. To determine cremation and burial arrangements, including charges in consultation with the Lead Specialist - Finance, and to grant rights (e.g. exclusive rights of burial) at Guildford Crematorium and cemeteries.
8. To nominate suitable persons as medical referees at Guildford Crematorium and, in consultation with the Lead Specialist - Finance, to implement approved increases in their fees and to recover any increase from the funeral director/bereaved outside of the annual review of cremation fees.
9. In the case of important hedges, to issue hedgerow retention notices in accordance with the Hedgerow Regulations 1997.
10. To authorise the service of tree replacement notices under Sections 207 and 213 of the Town and Country Planning Act 1990 (as amended).
11. To deal with all matters in relation to high hedges.
12. To manage, operate and let facilities and enter into franchise agreements as appropriate with operators within the Council's parks, open spaces and recreation areas and to determine their opening hours.
13. To permit the Guildford Allotments Society to manage and let allotments and to resolve appeals relating to decisions on applications to erect structures, the service of malcultivation notices and to issue notices to quit.
14. To sign all agreements for the letting of allotments.

15. In consultation with the appropriate lead councillor, local ward councillors and the Chief Finance Officer, to release Special Protection Area (SPA) endowment funds of up to £40,000 per year per site for ongoing maintenance of the relevant individual Suitable Alternative Natural Greenspace (SANG) sites.
16. In consultation with the Lead Specialist – Legal, to settle disputes under the Commons Acts.
17. In consultation with local ward councillor(s), to deal with sponsored schemes for ornamental planting on highway land.
18. To authorise the waiving of replanting requirements in accordance with Section 206 of the Town and Country Planning Act 1990.
19. On receipt of a hedgerow removal notice, to determine whether the hedge is important in accordance with the Hedgerow Regulations 1997.
20. To make provisional tree preservation orders.
21. In consultation with the Chairman of the Planning Committee and the relevant local ward councillor(s), to confirm unopposed tree preservation orders.
22. Following consultation with the Chairman of the Planning Committee and the relevant local ward councillor(s), to decide not to confirm a tree preservation order.
23. To determine applications to fell or carry out works to trees, which are subject to a tree preservation order or within a conservation area.
24. To determine, in consultation with the Chairman of the Planning Committee and the relevant local ward councillor(s), Tree Preservation Order applications where fewer than ten objections have been received.
25. In consultation with the Lead Councillor with portfolio responsibility for Environment and relevant ward councillors, to deliver, manage, and operate habitat banks on appropriate council owned land.

### **Joint Executive Head of Housing Services**

#### ***Special Projects Housing Lead***

1. In consultation with the Lead Specialist - Finance, to enter into any arrangements with a creditor or debtor of the Council, in respect of the Housing Revenue Account, for payment to be made by way of instalments.
2. In consultation with the Lead Specialist - Finance, to write-off debts in accordance with the limits set out in the Council's Financial Procedure Rules.
3. To pay statutory and other compensation arising out of the decisions and activities of the

Council, including:

- (a) under the Tenants' Right to Compensation Scheme;
  - (b) under the Land Compensation Act 1973 (home loss and disturbance allowances);  
and
  - (c) under the Council's discretionary schemes in respect of costs associated with tenants' relocation or alterations to their homes up to a maximum of £500.
4. To refund overpayments in accordance with Financial Procedure Rules.
  5. To apply to the court for an order suspending the right to buy in appropriate cases in accordance with Section 192 of the Housing Act 2004.
  6. To instigate forfeiture or other proceedings to recover possession of a property in cases where a residential leaseholder breaches the conditions of their lease.
  7. To apply for a warrant of possession for breach of the terms of a suspended possession order.
  8. To instigate proceedings to recover possession of shared ownership properties and deal with granting of all or any consents required for works to shared ownership properties.
  9. In consultation with the appropriate lead councillor, to approve amendments to tenants' participation compacts and successor agreements including "Local Offers".
  10. To approve the sale of houses and determine all associated matters in accordance with the right to buy scheme and the Council's agreed policies.
  11. To approve the disposal of small pieces of HRA land adjoining former Council-owned properties to the owners.
  12. In consultation with the Chief Finance Officer:
    - To exercise the Council's functions in respect of matters relating to Part II of the Housing Act 1985 (as amended) and disposals of dwellings under the Council's policy;
    - Determination of applications to purchase under the Housing Act 1985 or Council policy;
    - Determination of valuations under Right to Buy or Voluntary Council sales;
    - Determination of discount and sale price;
    - Determination of liability for shared costs following disposals of Council dwellings and calculation of service charges;
    - Sale or otherwise parting with possession of whole or part of property in mortgage to the Council.
  13. In consultation with the appropriate lead councillor, to extend the lease term of equity share houses and flats, using a protocol to be agreed with the lead councillor, in cases where the leaseholder does not have a statutory entitlement.



14. To determine applications:
  - (a) to extend the lease term of flats in accordance with the Leasehold Reform, Housing and Urban Development Act 1993; and
  - (b) to transfer the freehold of houses in accordance with the Leasehold Reform Act 1967

on terms to be agreed in consultation with the appropriate lead councillor.
15. Subject to compliance with the provisions of housing legislation and any associated regulations or guidance, to administer and determine applications for assignments by way of mutual exchange.
16. To take all relevant action in relation to current and former occupiers of temporary and supported accommodation in accordance with the policies agreed by the Council.
17. To manage and administer all aspects of supported housing.
18. To enter into contracts for the provision of housing support and related services with Surrey County Council.
19. To offer introductory tenancies followed by flexible tenancies of either two or five years in accordance with the Council's tenancy strategy and undertake all management issues relating thereto.
20. To manage and administer including dealing with all financial matters in accordance with the Council's policies all aspects of sheltered housing.
21. To discharge the duties of the Council in accordance with legislation, Council policy and with regard to published guidance in relation to:
  - (a) the provision of housing advice and assistance; and
  - (b) all matters relating to homelessness and the prevention of homelessness and people in housing need.
22. To undertake a review of any decision taken under delegated power no. 21 above and to nominate other appropriate officers to carry out such reviews.
23. In consultation with the Lead Specialist - Finance and in accordance with the Council's homelessness prevention strategy, to operate private leasing, rent deposit, bond or similar schemes to prevent homelessness enabling applicants to remain in their present home or obtain accommodation from other landlords on the basis agreed by the Council including:
  - (a) the authorisation of payments on behalf of households to relevant third parties (such as landlords, letting agents, inventory companies, mortgage companies and so on), by way of a non-refundable grant or recoverable interest free loans;

- (b) legal action to recover outstanding loans made for rent in advance or other purposes and to recover monies claimed against bonds by landlords under such schemes.
- 24. In consultation with the Lead Specialist - Finance to administer any government grant funding received by the Council for homelessness prevention or similar purposes in line with the funding criteria set down and with the priorities identified under the homelessness prevention strategy including the acquisition, commissioning and contracting of services from third parties in accordance with the Council's policies and procedures.
- 25. To agree terms for the lease from private landlords and other housing providers of premises to be used for the provision of temporary or permanent accommodation for people in housing need and to enter into all necessary arrangements with the owners and tenants of such properties.
- 26. In consultation with the appropriate lead councillor, to review and update the Homelessness and Housing Strategy action plans.
- 27. To administer the Council's low-cost home ownership service in accordance with Council policy and to exercise discretion in its application where so permitted.
- 28. To make all necessary contractual and conveyancing arrangements in connection with the Council's equity sharing scheme.
- 29. To discharge the duties of the Council in accordance with legislation, Council policy and with regard to published guidance in relation to the publication of a housing allocation scheme and the administration of that scheme including nominations to registered providers of social housing, transfers.
- 30. To undertake a review of any decision taken under delegated power no. 29 above and to nominate other appropriate officers to carry out such reviews.
- 31. In consultation with the appropriate lead councillor to make such minor amendments to the Housing Allocation Scheme as may be deemed necessary in the future in the light of revised government guidance, case law, clarification and/or interpretation of policy and general operation of the policy.
- 32. To enter into nomination agreements with housing providers (both registered and non registered).
- 33. To make payments to tenants:
  - (a) vacating Council-owned housing in accordance with the cash incentive scheme; or
  - (b) moving to smaller rented accommodation up to the maximum amounts approved by the Council or where appropriate, to arrange and pay for removals for tenants up to the maximum amount permitted.
- 34. In consultation with the Chief Finance Officer and appropriate lead councillor and subject

to being satisfied that the Council will receive the best consideration reasonably obtainable to accept terms for the granting, renewing, reviewing and varying of leases of Council-owned land and property held in the Housing Revenue Account.

35. In relation to the Council's land and premises leased or licensed to others and in consultation with the appropriate lead councillor and relevant Director to approve proposals for assignment, sub-letting or surrender of leases and for change of use.
36. In relation to properties held in the Housing Revenue Account, to perform all functions of the Council as landowner, in respect of its responsibilities and powers under the Party Wall Act 1996, including the service and response to statutory notices, appointment of party wall surveyors and compliance with all steps required by any party wall award.
37. To operate a care and repair service and, in respect of Council-owned dwellings, to arrange for the works to be carried out.
38. To secure the restoration or continuation of supplies of water, gas and electricity to premises provided or to be provided for housing purposes and to recover any sums expended from the appropriate person.
39. To pay statutory and other compensation arising out of the decisions and activities of the Council, including:
  - (a) for damage or disturbance caused by works undertaken by the Council up to a maximum of £500; and
  - (b) decorating allowances for new or existing occupants, where this is considered appropriate and cost-effective to facilitate lettings
40. To bring forward proposals for affordable housing development on Council and privately owned sites within the borough.

**Joint Executive Head of Community Services**

1. In consultation with the appropriate lead councillor, to approve expenditure from the Project Aspire reserve.
2. To manage and administer including dealing with all financial matters in accordance with the Council's policies all aspects of:
  - (a) day centres;
  - (b) meals on wheels service;
  - (c) community transport;
3. To determine all matters relating to the management and maintenance of gypsy and traveller sites.
4. In consultation with the lead councillor with responsibility for finance and the Chief Finance Officer, to approve expenditure from the Community Centres reserve.

5. To progress arrangements for consented community sponsorship with the Home Office and with Resettle@Guildford.
6. To manage and administer including dealing with all financial matters in accordance with the Council's policies all aspects of:
  - (a) central emergency communications system (including the determination of fees and the submission of tenders for other emergency standby services); and
  - (b) care and repair (home improvement agency)
7. To operate a care and repair service and in respect of Council-owned dwellings, to arrange for the works to be carried out.
8. In consultation with the Lead Councillor with responsibility for safeguarding children and vulnerable adults, to review and amend the Safeguarding Policy in response to changes in legislation, guidance, or practice in the future.
9. In consultation with relevant Lead Councillors, to make all necessary arrangements to operate Council grant funding schemes, including determining the detailed eligibility criteria and rules of operation.
10. To make all necessary arrangements to administer a crowdfunding platform, including determining the detailed eligibility criteria for voluntary and community organisations wishing to raise funds and making financial contributions towards qualifying projects.
11. To waive or reduce repayment of disabled facilities grants having regard to individual circumstances and the Council's agreed criteria.
12. In relation to the care and repair service, to determine applications for grants for adaptations to dwellings for the chronically sick and disabled within the criteria adopted by the Council.
13. To review and amend the Council's Statement of Policy and Procedures on Anti-Social Behaviour as required by legislation.

**Joint Executive Head of Communications and Customer Services**

1. To coordinate the Council's compliance with Freedom of Information legislation.
2. In relation to Freedom of Information legislation:
  - (a) to add further classes of information to the Council's Publication Scheme in consultation with the Leader of the Council and Management Team; and
  - (b) to make appropriate amendments to the list of documents available under the Publication Scheme.
3. In consultation with the Leader of the Council, to make such minor amendments to the Communications Strategy as may be deemed necessary.

***Lead Specialist - ICT***

1. To replace and upgrade hardware, software and infrastructure within the balance of the IT Renewals Fund.
2. In consultation with the relevant Lead Councillor, to keep the following policies under review and to approve such updates to these policies and associated supplementary policies, as he considers appropriate:
  - ICT Users' Policy
  - ICT Policy for Councillors

**JOINT STRATEGIC DIRECTOR: PLACE**

1. In consultation with the Executive Head of Assets and Property, the Joint Section 151 Officer, and the relevant Lead Councillor with portfolio responsibility for finance and asset management, to approve strategic and/or operational property acquisitions within the set parameters of the Strategic Property Acquisition Procedure.
2. To bring forward and develop proposals for housing development on Council and privately owned sites within the borough and to identify and select appropriate development partners in accordance with the procurement rules and regulations and to report to the Executive accordingly.
3. In consultation with the appropriate lead councillor and subject to being satisfied that the Council will receive the best consideration reasonably obtainable to sell land and buildings up to 0.2 hectares in area, following consultation with the Chief Finance Officer and ward councillor(s) in compliance with the Land and Property Disposal Policy.
4. To authorise purchases of non-housing stock land and buildings up to £1 million in consultation with the appropriate lead councillor, relevant Joint Director, and Chief Finance Officer, where budget provision exists on the approved general fund capital programme.
5. In relation to land and premises occupied or to be occupied by the Council and in consultation with the appropriate lead councillor, relevant Joint Director and Chief Finance Officer to approve the acquisition of land or buildings up to 0.2 hectares in area.

**Joint Executive Head of Regeneration & Planning Policy**

***Policy Lead - Planning Policy***

1. To prepare and maintain an up to date Local Plan (development plan documents) for the Borough for adoption by Full Council, under the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2011, and the relevant regulations, including the Town and Country Planning (Local Planning) (England) Regulations 2012; and to assemble the necessary evidence base and all other documents and commission all reports required to facilitate and inform the policy making process, including the Sustainability Appraisal and

Strategic Environmental Assessment, and Habitats Regulations Assessment

2. To initiate and pursue any suitable opportunities for co-operation with neighbouring planning authorities, and certain other public bodies as laid out in the legislation above, and as specifically required by section 33A of the Planning and Compulsory Purchase Act 2004.
3. To prepare, maintain and publish documents for adoption by the Executive, as required by the Planning and Compulsory Purchase Act 2004 and the relevant regulations, including the following:
  - Supplementary Planning Documents
  - Local Development Scheme
  - Statement of Community Involvement
4. In consultation with the appropriate lead councillor, to make factual changes necessary to ensure that all Supplementary Planning Documents remain up to date.
5. To monitor, prepare and publish information relating to the effectiveness and outcomes of planning policies, and to inform future plan-making, including the following:
  - Annual Authorities Monitoring Reports as required by the Planning and Compulsory Purchase Act 2004 and relevant regulations
  - Brownfield Land Register, as required by the relevant regulations
  - Housing Delivery Action Plan, as required by the National Planning Policy Framework
  - Any other documents required by the National Planning Policy Framework and National Planning Practice Guidance
6. To prepare, and maintain an up to date Community Infrastructure Levy (CIL) for the Borough, for adoption by Full Council, under the Planning Act 2008, and the relevant regulations; and to assemble the necessary evidence base and all other documents and commission all reports required to facilitate and inform the CIL making process.
7. In consultation with the Leader of the Council and appropriate lead councillor, to agree any minor changes to the Surrey Hills AONB Management Plan proposed by the Executive, or any other constituent local authorities, in discussion with the Chairman of the Surrey Hills Board.
8. In consultation with the appropriate lead councillor, to approve annually any additional funding requested in January of each year of the Surrey Hills Partnership Agreement.
9. To receive, consider, publicise/consult upon, and assess proposed neighbourhood development plans, and neighbourhood development orders (including community right to build orders), area designation requests from qualifying bodies (including to adjudicate or decline to consider an application where multiple requests may overlap), and Neighbourhood Forum designation requests (including to adjudicate or decline to consider an application), and to publicise decisions made.
10. To organise independent examinations for neighbourhood plans and neighbourhood

development orders and decide what actions to take in response to recommendations within an examination report.

11. To carry out Habitats Regulations Assessments, Strategic Environmental Assessments and Equalities Impact Assessments as required.
12. In consultation with the relevant ward councillor and the Chief Finance Officer, to add a new scheme to the General Fund Capital Programme, or amend approved schemes, up to a total value of £40,000 per scheme where the scheme is to be fully funded from s106 contributions and the contribution is in hand.
13. To deal with all aspects of proposals to remove the last telephone box from a site, including consultation with local residents and, in consultation with local ward councillors, the publication of initial and final decision notices.
14. To determine all grants in respect of listed buildings and conservation areas.
15. To make inclusions and other amendments to the Council's List of Buildings of Local, Architectural or Historic Interest.
16. To make additions and minor amendments to boundaries in the Gazetteer of Local Historic Parks and Gardens.
17. In consultation with the appropriate lead councillor, to make such minor alterations to improve the clarity of the adopted Guildford Borough Local Plan and Policies Map as may be deemed necessary.
18. To undertake screening opinions and appropriate assessments pursuant to Part IV of the Conservation (Natural Habitats, & c) Regulations 1994.
19. To exercise all delegable functions in relation to the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) and associated regulations.
20. To bring forward proposals for affordable housing development on Council and privately owned sites within the borough.

**Joint Executive Head of Assets and Property**

1. To undertake the general management and control of the Council's land and property holdings and to achieve the best economic and social use of land and buildings, including their appropriation for the purposes of achieving the Council's priorities.
2. In consultation with the Chief Finance Officer to vire repairs and maintenance budgets within the overall budget provision.
3. In consultation with the appropriate lead councillor and subject to being satisfied that the Council will receive the best consideration reasonably obtainable:
  - (a) subject to consultation with the Chief Finance Officer when the annual rent or

premium exceeds £199,999, to accept terms for the granting, renewing, reviewing and varying of leases of Council-owned land and property held in the General Fund;

- (b) to grant licences, easements, rights of way and wayleaves over Council-owned land; and
  - (c) to sell or let land for the use of statutory undertakers and to licence land to developers to facilitate development;
4. In relation to the Council's land and premises leased or licensed to others and in consultation with the appropriate lead councillor and relevant Joint Director:
- (a) to approve revisions in rent;
  - (b) to agree variations in the terms of covenants;
  - (c) to approve, as landlord, proposals for new building works and alterations except in relation to land and premises held in the Housing Revenue Account).
  - (d) to approve uses of buildings and land by tenants and licensees.
  - (e) to approve proposals for assignment, sub-letting or surrender of leases and for change of use;
  - (f) to institute all necessary action for forfeiture in the event of non-payment of rent or breach of covenant;
  - (g) to arrange for the termination of leases or licences, including the issue of relevant notices to quit and notices under the Landlord and Tenant Act where possession is required by the Council for any purpose or where such action is justified in the interests of good estate management;
  - (h) to approve the payment of all forms of statutory compensation where appropriate; and
  - (i) to make arrangements for the re-letting of premises.
5. In relation to land and premises occupied or to be occupied by the Council and in consultation with the appropriate lead councillor, relevant Joint Director and Chief Finance Officer:
- (a) to take leases, licences and other appropriate interests when required by the Council for the proper performance of its functions;
  - (b) to approve all relevant terms, including the level of rental;
  - (c) to approve revisions in rent and other terms; and
  - (d) to approve in the Council's capacity as tenant, proposals for new building works



and alterations.

6. In consultation with the appropriate lead councillor, Lead Specialist – Finance and other relevant service leaders, to grant leases to organisations receiving grant support from the Council on such terms and conditions as shall be considered appropriate.
7. In relation to land and premises formerly in the Council's ownership and in consultation with the appropriate lead councillor, to agree the terms for the variation of restrictive covenants
8. To respond to any notice served upon the Council relating to the continued use of property in the Council's ownership.
9. To determine applications for agreements in respect of access of light and air.
10. To determine the siting of advertisement boards for Council-owned commercial or industrial premises.
11. To deal with all elements of the making and implementation of compulsory purchase orders where authorised by the Council.
12. To acquire land and buildings within confirmed compulsory purchase orders and to purchase in advance of such compulsory acquisition where the Council has resolved to make such an order, provided the payments do not exceed the assessed entitlement to compensation.
13. To perform all functions of the Council as landowner, except where a property is held in the Housing Revenue Account, in respect of its responsibilities and powers under the Party Wall Act 1996, including the service and response to statutory notices, appointment of party wall surveyors and compliance with all steps required by any party wall award.
14. To make applications for the provision of architectural and building surveying services to those bodies covered by the Local Authorities (Goods and Services) Act 1970.
15. In consultation with the Chief Finance Officer and the appropriate lead councillor, to acquire property within the criteria set out in the Asset Investment Strategy.
16. To determine the organisations to be charged fees for the hire of the Council's accommodation.
17. In consultation with the Chief Finance Officer, the lead councillor with responsibility for finance and assets, and the relevant lead councillor, to accept terms for the disposal of assets for less than the best consideration that can reasonably be obtained where the undervalue (the difference between the market value and the proposed transaction) is £30,000 or less and, for lease transactions, the lease term is 15 years or less.
18. In consultation with the Joint Director Community Wellbeing, the Chief Finance Officer, and the Lead Councillor with portfolio responsibility for Assets, to acquire property within the set parameters of the Property Investment Strategy.

- 19 In consultation with the Joint Executive Head of Planning Development, to determine all matters relating to the siting of bus shelters, bus stops, seats and other street furniture.
- 20 In consultation with the appropriate lead councillor, and relevant agencies and bodies, to carry out powers and duties under the Land Drainage Act 1991, including recovery of costs where appropriate up to a maximum value of £50,000.
- 21 In consultation with the appropriate lead councillor, to enter into such contracts as are necessary to progress the Action Plan associated with the Surface Water Management Plan within the capital resources available.

**Joint Executive Head of Regulatory Services**

1. To determine the scale of charges to be levied on the owners of abandoned shopping trolleys.
2. To exercise the Council's functions and enforcement powers under the Anti-Social Behaviour, Crime and Policing Act 2014, including:
  - (c) issuing community protection notices; and
  - (d) appointing authorised officers.
3. To pay statutory and other compensation arising out of the decisions and activities of the Council, including:
  - (a) for damage or disturbance caused by works undertaken by the Council up to a maximum of £500; and
  - (b) decorating allowances for new or existing occupants, where this is considered appropriate and cost-effective to facilitate lettings
4. To exercise the Council's powers and duties under the Clean Neighbourhoods and Environment Act 2005, including the service of notices, taking of enforcement action, institution of proceedings, undertaking of works in default and recovery of expenses incurred and any other action necessary to ensure compliance with the legislation.
5. To exercise the Council's powers and duties, including all necessary enforcement and other action to deal with any matter prejudicial to the environment, health, housing standards, community safety, animal welfare or a nuisance, including the service of notices under the appropriate sections of and regulations made under relevant UK legislation and to take any other action necessary to make premises or persons comply with environmental health, housing, safety and pollution legislation, community safety including the institution of proceedings, undertaking of works in default and recovery of expenses incurred and in accordance with the advice or requirements of government agencies.
6. To appoint, as necessary, appropriately trained and competent officers required to deliver functions under Part 1 of the Health Act 2006 and associated Smoke Free Regulations.

7. To appoint authorised officers for the purpose of discharging the Council's duties under the Sunbeds (Regulation) Act 2010
8. To exercise all functions delegated to the Licensing Committee under the Licensing Act 2003 and Gambling Act 2005 save where such functions are by law reserved to the Licensing Committee or Licensing Sub-Committee, including those functions listed in S10(4) Licensing Act 2003 and S154(4) Gambling Act 2005.
9. To exercise all functions in relation to all other licences, certificates or consents under which the Council has regulatory powers including taxi and private hire licences, save where such decisions are by law reserved to Council, the Licensing Committee or Licensing Sub-Committee.
10. To grant or refuse consent for the use of audio and/or video recording systems in hackney carriages and private hire vehicles in accordance with the guidelines agreed by the Licensing Committee and to suspend the use of such systems.
11. To determine, at least on an annual basis, any future changes to the hackney carriage table of fares in accordance with the adopted Taxi Fares Procedure and to authorise statutory publication of the table
12. In consultation with the appropriate lead councillor, to make such future changes to the costs inputted into the approved Hackney Carriage Fare Methodology in the future, as he shall deem appropriate.
13. In consultation with the appropriate lead councillor, to make such minor amendments to the Taxi and Private Hire Policy as may be required from time to time.
14. To undertake the Taxi and Private Hire enforcement powers of the following licensing authorities:
  - Elmbridge Borough Council
  - Epsom and Ewell Borough Council
  - Mole Valley District Council
  - Reigate and Banstead Borough Council
  - Runnymede Borough Council
  - Spelthorne Borough Council
  - Surrey Heath Borough Council
  - Tandridge District Council
  - Waverley Borough Council
  - Woking Borough Council
15. To keep and maintain the various licensing registers in the prescribed form and manner.
16. To deal with all matters relating to the licensing and enforcement of housing standards and houses in multiple occupation, as specified in the housing acts and associated regulations, or adopted by the Council under powers contained in the acts, including the service of any notices or the undertaking of works in default or by agreement.

17. To implement the charging structure for financial penalties imposed to improve housing standards in the private rented sector in accordance with the powers introduced by Section 126 of the Housing and Planning Act 2016 and to make any necessary arrangements to ensure the procedure is process driven with a consistent approach.
18. To determine all matters relating to grants towards the renewal of minor works to private sector housing in accordance with the Council's statutory obligations, discretionary grant policies and budgetary provision.
19. To approve grants towards the cost of providing a separate water service to houses with shared services in accordance with the Council's agreed policies.
20. To authorise the institution of proceedings in respect of failure to provide a tenant with a rent book in the correct form.
21. To make interim and final empty dwelling management orders and promote compulsory purchase orders in respect of long-term empty properties.
22. To determine all matters relating to the licensing, control, management and maintenance of caravan and camping sites, including the issue, renewal, transfer or refusal of licences, certificates or consents under which the Council has regulatory powers, including the imposition of conditions and the charging of fees, where permitted by legislation.
23. To take enforcement action under Parts 1, 2, 3 and 4 of the Housing Act 2004.
24. To undertake activities necessary to meet the Council's responsibilities in respect of relevant Sustainable Energy and Climate Change legislation.
25. To take any and all steps necessary to exercise and/or discharge the Council's functions, powers and duties under The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014.
26. To vary the penalty for non-compliance with The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 when there are extenuating circumstances and upon receipt of written representations.
27. To take all steps necessary to exercise and/or discharge the Council's functions, powers and duties under The Smoke and Carbon Monoxide Alarm (England) Regulations 2015, including undertaking any review of a penalty charge notice.
28. To take all necessary action to implement the charging structure and impose financial penalties in accordance with the Private Rented Sector (England) Regulations 2020.
29. To waive or reduce stray dog detention charges in appropriate cases.
30. To exercise the Council's functions and enforcement powers under the Anti-Social Behaviour, Crime and Policing Act 2014, including:

- (i) securing civil injunctions;
  - (ii) issuing closure notices and securing closure orders;
  - (iii) issuing community protection notices;
  - (iv) implementing public space protection orders; and
  - (v) appointing authorised officers.
31. To apply for injunctive relief in cases of neighbour disputes or complaints of nuisance or where otherwise appropriate.
32. To take all necessary steps in connection with the identification, removal, storage, and disposal of abandoned vehicles in accordance with relevant legislation.
33. To carry out tendering exercises for contracts for the removal of abandoned and unwanted cars.
34. To authorise investigating officers to seek authorisation from the Magistrates Court to undertake covert surveillance (directed surveillance and covert human intelligence sources) in accordance with the Council's policies and the provisions of relevant legislation.

**Joint Executive Head of Planning Development**

1. To determine all planning and other related applications except where:-
- (a) the applicant is the Council
  - (b) it is known the applicant is a councillor or officer of the Council
  - (c) a councillor has requested that the application be determined by the Planning Committee
  - (d) any Director refers the application to the Planning Committee
  - (e) the threshold for representations received contrary to officer recommendations is reached as set out in the current Planning Committee public speaking arrangements
  - (f) the application has a major strategic implication for the authority
2. To approve non-material amendments to approved plans in accordance with the criteria specified by the Council.
3. To make directions or notify applicants of the requirement for further information.
4. To determine the extent of neighbour notification in relation to any planning or related application.
5. To decline to determine repetitive applications.
6. To exercise the Council's powers and duties in relation to Planning Inspectorate appeals

in consultation with the Lead Specialist – Legal, Chief Finance Officer, and the relevant lead councillor with portfolio responsibility for planning development, including the negotiation and settlement of awards of costs against the Council up to a maximum level of £50,000, and the negotiation and settlement of such costs when they are awarded in the Council's favour.

7. To agree planning performance agreements and extensions of time where they relate to the determination of planning applications.
8. To respond to all consultations from neighbouring authorities on planning and related applications, except where such applications are of a strategic nature or a local ward councillor disagrees with the proposed response.
9. To make decisions on applications for determination of what constitutes development for the purpose of development control.
10. To determine whether prior approval is required in respect of developments permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
11. To make and confirm all Article 4 directions where there are no objections
12. To issue notices, undertake default works, authorise entry, require discontinuance and any other actions necessary or expedient, with regard to all matters specified in planning and associated legislation
13. To decide not to take enforcement action when it is not considered expedient to do so (in relation to medium and high priority cases as set out in the enforcement plan) following consultation with the appropriate lead councillor and relevant local ward councillor(s), who shall be given seven days' notice of such decision.
14. To determine applications for lawful development and established use certificates
15. To authorise the waiving of replanting requirements in accordance with Section 206 of the Town and Country Planning Act 1990.
16. On receipt of a hedgerow removal notice, to determine whether the hedge is important in accordance with the Hedgerow Regulations 1997.
17. In the case of important hedges, to issue hedgerow replanting notices in accordance with the Hedgerow Regulations 1997.
18. To authorise the service of tree replacement notices under Sections 207 and 213 of the Town and Country Planning Act 1990 (as amended).
19. To make provisional tree preservation orders.
20. In consultation with the Chairman of the Planning Committee and the relevant local ward councillor(s), to confirm unopposed tree preservation orders.

21. Following consultation with the Chairman of the Planning Committee and the relevant local ward councillor(s), to decide not to confirm a tree preservation order.
22. To determine applications to fell or carry out works to trees, which are subject to a tree preservation order or within a conservation area.
23. To determine, in consultation with the Chairman of the Planning Committee and the relevant local ward councillor(s), Tree Preservation Order applications where fewer than ten objections have been received.
24. To deal with all matters in relation to high hedges.
25. To respond to consultations from the Basingstoke Canal Authority in respect of works to trees in the Canal Conservation Area.
26. To determine fees for planning and other related applications, approval of reserved matters and applications for consent to display advertisements.
27. In consultation with the appropriate lead councillor and Chief Finance Officer, to review the pre-application charging regime, including the level of fees, annually.
28. To determine the need for environmental impact assessments and to make screening and scoping opinions.
29. To undertake screening opinions and appropriate assessments pursuant to Part IV of the Conservation (Natural Habitats, & c) Regulations 1994.
30. To carry out Building for Life Assessments and to issue and publish the appropriate certificate.
31. To carry out the work referred to in 30. above at the request and on behalf of neighbouring councils and to set, and periodically vary, the charge in respect of providing this service.
32. To respond to the licensing authority in connection with consultations on applications under the Licensing Act 2003 and Gambling Act 2005 on behalf of the local planning authority.
33. To apply to the licensing authority for a review of a premises licence or club premises certificate or licences under Section 197 of the Gambling Act 2005.
34. To maintain the local land charges register and issue certificates of search
35. In consultation with the appropriate lead councillor, to review and adjust the level of fees charged for the Assisted Land Charges Service for private search companies
36. To deal with all matters relating to the numbering, renumbering, naming and renaming of streets and premises in streets in consultation with the appropriate lead councillor and ward councillors.

37. In consultation with the relevant Lead Councillor, to publish a scheme of charges for services provided in relation to Street Naming and Numbering.
38. To maintain and publish the Council's list of land of community value and a list of unsuccessful nominations in accordance with the requirements of the Localism Act 2011.



**GUILDFORD BOROUGH COUNCIL**  
**SCHEDULE OF PROPER OFFICERS**

**Introductory Provisions**

1. The legislation specified below in respect of the list of “proper officers” shall include any other enactment which may, directly or indirectly, replace it with or without amendment.
2. In the event of any officer mentioned below being, for any reason, unable to act or in the event of the relevant post being vacant, the Joint Chief Executive or a nominated deputy in his/her absence, shall be authorised in consultation with the Leader of the Council either to undertake that proper officer role themselves or nominate in writing another officer to undertake that role.
3. In the event that an officer is not otherwise identified within this Constitution as a proper officer in respect of any enactment, the proper officer for the function shall be the Joint Chief Executive. The Joint Chief Executive may nominate another officer to undertake that function in writing.

**Public Health Act 1936**

Section 84	Cleansing or destruction of filthy or verminous articles	Joint Strategic Director Place
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**Local Government Act 1972**

Section 13	To act as parish trustee	Monitoring Officer
Section 83(1) - (3)	To witness and receive declarations of acceptance of office by the Mayor, Deputy Mayor and councillors	Democratic Services and Elections Manager Monitoring Officer
Section 84	To accept written notice of resignations from persons holding office as Mayor, Deputy Mayor or councillor	Democratic Services and Elections Manager
Section 88(2)	To convene a meeting of the Council for the purposes of electing a Mayor following a casual vacancy in that office	Joint Chief Executive
Section 89(1)(b)	To accept notice in writing from electors requiring an election to fill a casual vacancy on the Council	Returning Officer
Section 100(B)(1)	To supply copies of papers to the press	Democratic Services and Elections Manager
Section 100(B)(2)	To exclude from public inspection those reports (or parts of reports) likely to be considered in the absence of the public	Monitoring Officer
Section 100(B)(7)(c)	Making available to the press other documents already supplied to councillors	Democratic Services and Elections Manager
Section 100(C)(2)	To make a written summary in lieu of confidential minutes	Democratic Services and Elections Manager
Section 100(D)(1)(a)	To compile a list of background papers to a report	any joint strategic director, executive head of service, or service leader

## PART 3 – DELEGATION TO OFFICERS

Section 100(D)(5)(a)	To identify background papers on which a report is based which have been relied on in preparing the report	any joint strategic director, executive head of service, or service leader
Section 100(F)(2)	To identify documents not open to inspection by councillors under Section 100(F)(1)	Monitoring Officer
Section 115(2)	To receive all monies due to the Council from every officer employed by the Council	Executive Head of Finance
Section 137A	To receive a deposited statement (or any report or accounts) from voluntary organisations in receipt of financial assistance from the Council setting out the use to which that assistance has been put	Lead Specialist - Finance
Section 146(1)	To make certain statutory declarations and give certain certificates relating to securities on the alteration of the name or area of the Council	Executive Head of Finance
Section 151	To be responsible for the proper administration of the financial affairs of the Council	Chief Finance Officer
Section 191	To receive notices from Ordnance Survey in relation to ascertaining or locating local authority boundaries	Joint Chief Executive
Section 210 (6)	To exercise the powers in relation to a charity when the corresponding officer in whom such powers are invested is absent and to act as charity trustee in the absence of corresponding officer	Monitoring Officer
Section 225(1)	To receive and give receipt for any document required to be formally deposited	Democratic Services and Elections Manager
Section 228	To make arrangements for the inspection of Council minutes	Democratic Services and Elections Manager
Section 229(5)	To certify photographic copies of documents for use in legal proceedings	Monitoring Officer
Section 234(1) - (2)	To sign formal notices, orders or other documents made or issued by the Council other than those under seal and other than those specifically delegated to another officer	Any joint strategic director
Section 236(10)	To send copies of all byelaws made by the Council to the County Council	Monitoring Officer
Section 238	To certify a printed copy of Council byelaws	Monitoring Officer
Section 248	To maintain a roll of the Freemen of the Borough	Democratic Services and Elections Manager
Schedule 12 (Paragraph 4(2)(b))	To issue and serve summonses to meetings of the Council	Joint Chief Executive
Schedule 12 (Paragraph 4(3))	To receive formal notification from councillors requesting that a summons be sent to an alternative address	Democratic Services and Elections Manager
<b>Health and Safety at Work etc. Act 1974</b>		
Sections 19 - 22	To appoint inspectors and authorise various	Joint Strategic Director

## PART 3 – DELEGATION TO OFFICERS

enforcement powers

Place or Executive Head  
of Regulatory Services

### Local Government (Miscellaneous Provisions) Act 1976

Section 41	To certify copy resolutions, orders, reports, minutes, records of executive decisions and copy instruments appointing officers to perform certain functions	Democratic Services and Elections Manager
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### Representation of the People Act 1983

Section 8	To act as Registration Officer for the registration of Parliamentary and Local Government Electors	Joint Chief Executive
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Section 28	To act as Acting Returning Officer at Parliamentary Elections	Joint Chief Executive
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Section 35	To act as Returning Officer for the election of Councillors of the Borough and for the election of Councillors of Parishes within the Borough	Joint Chief Executive
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### Building Act 1984

Section 61	To authorise access to any works being carried out to repair, reconstruct or alter a drain	Joint Strategic Director Community Wellbeing
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Section 78	To take emergency action in relation to dangerous buildings and structures	Joint Strategic Director Community Wellbeing
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### Public Health (Control of Disease) Act 1984

All Sections	All provisions including: <ul style="list-style-type: none"> <li>● Removal of body to mortuary or for immediate burial (Section 48)</li> <li>● Authentication of documents (Section 59)</li> </ul>	Joint Strategic Director Community Wellbeing or Executive Head of Environmental Services and Local Health Service Consultants in Communicable Disease Control
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### Local Government and Housing Act 1989

Section 2(4)	Officer with whom the list of politically restricted posts shall be deposited	Head of Paid Service
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Section 4	Head of Paid Service	Joint Chief Executive
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Section 5	Monitoring Officer	Executive Head of Legal & Democratic Services
Section 15 - 17	To receive various notices relating to political groups and political balance on committees under relevant regulations	Democratic Services and Elections Manager

Section 18	To implement a scheme of councillors' allowances	Joint Chief Executive
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### Food Safety Act 1990

Section 5	All functions required of an authorised officer	Joint Strategic Director Place or Executive Head
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## PART 3 – DELEGATION TO OFFICERS

		of Regulatory Services
<b>Party Wall etc. Act 1996</b>		
Section 10(8)	To select a third surveyor, if required, during a neighbour dispute about building projects	Joint Strategic Director Community Wellbeing
<b>Crime and Disorder Act 1998</b>		
	To ensure compliance with the provisions of the Crime and Disorder Act in relation to the prevention of crime and disorder	Joint Chief Executive
<b>The Local Authorities (Standing Orders) (England) Regulations 2001</b>		
Part II of Schedule 1	To receive details of proposed officer appointments and dismissals To notify each member of the Executive of (i) the name of the person to whom the appointor/dismissor wishes to make an offer of appointment/dismiss; (ii) any other particulars relevant to the appointment/dismissal which the appointor/dismissor has notified to the proper officer; and (iii) the period within which any objection to the making of the offer/dismissal is to be made by the Leader on behalf of the Executive To notify the appointor/dismissor that no objection was received by him within that period from the Leader	Monitoring Officer
<b>Proceeds of Crime Act 2002</b>		
	To meet the Council's obligations in relation to the Proceeds of Crime Act	Executive Head of Finance
<b>Local Elections (Principal Areas) Rules 2006</b>		
Rule 50	To receive the names of persons elected to the Council from the Returning Officer	Democratic Services and Elections Manager
<b>The Local Elections (Parishes and Communities) (England and Wales) Rules 2006</b>		
Rule 5	To receive requests for an election to fill a casual vacancy in the office of a parish councillor	Returning Officer
Rule 50	To receive the names of persons elected to parish councils from the Returning Officer	Democratic Services and Elections Manager
<b>Cremation (England and Wales) Regulations 2008</b>		
Regulation 32	Person appointed as registrar to register all cremations carried out by the cremation authority	Bereavement Services Manager

**Localism Act 2011**

Section 33	To receive written requests by a member or co-opted member of the authority, to grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation.	Monitoring Officer
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**The Local Authorities (Referendums) (Petitions) (England) Regulations 2011**

Regulations 4, 7, 8, 11, 13 and 14	<ul style="list-style-type: none"> <li>• To establish and publish the verification number each year</li> <li>• To deal with procedures for post-announcement petitions</li> <li>• To determine whether petitions should be amalgamated</li> <li>• To deal with procedures on receipt of petition</li> <li>• To comply with publicity requirements on receipt of a valid or an invalid petition</li> </ul>	Monitoring Officer
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**The Local Authorities (Conduct of Referendums) (England) Regulations 2012**

Regulation 4	To publish information in connection with referendums	Monitoring Officer
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**The Local Government Act Referendums Rules**

Rule 41	To receive the declaration of result of referendum from the counting officer	Joint Chief Executive
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**The Local Government Act Referendums (Combination of Polls) Rules**

Rule 43	To receive the declaration of result of referendum from the counting officer	Joint Chief Executive
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**The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012**

Regulations 2 and 15	<ul style="list-style-type: none"> <li>• To identify as background papers those documents which disclose any facts or matters on which a report or an important part of a report is based and were relied on to a material extent in preparing the report.</li> <li>• To compile a list of background papers to a report</li> </ul>	any joint strategic director, executive head of service, or Service Leader
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Regulation 7 (2)	To agree when it is appropriate to exclude from the copy of any report the whole, or any part, of the report which relates only to matters during which the meeting is likely to be a private meeting.	Monitoring Officer
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Regulation 7 (7)	Following a request to supply copies of agendas and other documents, to agree in the case of any item, a copy of any other document supplied to members of the executive in connection with the item.	Democratic Services and Elections Manager
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Regulation 10	<ul style="list-style-type: none"> <li>• To give notice to the relevant overview and scrutiny committee chairman where it has been</li> </ul>	Democratic Services and Elections Manager
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**PART 3 – DELEGATION TO OFFICERS**

impracticable to publish intention to make a key decision under Regulation 9

- To make available at the Council offices for inspection by the public and to publish on the Council's website, a copy of the notice.

Regulation 12	To produce, as soon as reasonably practicable after any meeting of a decision-making body at which an executive decision was made, a written statement for every executive decision taken which includes the information specified in paragraph (2) of Regulation 12.	Democratic Services and Elections Manager
Regulation 13	To produce, as soon as reasonably practicable after an individual member has made an executive decision, a written statement for every executive decision taken which includes the information specified in paragraph (2) of Regulation 13.	Democratic Services and Elections Manager
Regulation 14	To ensure that copies of any records and reports (or parts of reports) considered at the meeting or, as the case may be, considered by the individual member or officer which are relevant to a decision recorded in accordance with regulations 12 or 13, are made available for inspection by members of the public, as soon as is reasonably practicable, at the Council offices and on the website.	Democratic Services and Elections Manager
Regulation 20	To determine whether any document or part of a document contains or may contain confidential or exempt information or the advice of a political adviser or assistant.	Monitoring Officer



GUILDFORD  
B O R O U G H

## **PART 4**

# **PROCEDURE RULES**

# GUILDFORD BOROUGH COUNCIL

## COUNCIL PROCEDURE RULES

### Part A – Council Meetings

#### 1. ANNUAL MEETING OF THE COUNCIL

##### 1.1 Time and place

- (a) The Council shall in every year hold an annual meeting.
- (b) The annual meeting of the Council shall be held:
  - (i) in a year of ordinary elections of councillors to the Council, on the eighth day after the day of retirement of councillors or such other day within 21 days following the day of retirement as the Council may fix; and
  - (ii) in any other year, on such day in the month of March, April or May as the Council may fix

and the meeting shall, unless the Council or the Joint Chief Executive, in consultation with the Mayor elect and political group leaders, otherwise direct, be held at the Guildhall, High Street, Guildford commencing at 12 noon.

##### 1.2 Business to be transacted at the Annual Meeting

- (i) To choose a person to preside if the Mayor and Deputy Mayor\* are absent
- (ii) To elect the Mayor
- (iii) To appoint the Deputy Mayor
- (iv) To receive any apologies for absence
- (v) To approve the minutes of the last ordinary meeting
- (vi) To receive any communications or announcements from the Mayor
- (vii) To consider any other business set out in the summons

Other than items (i) to (iii) above, the order of business may be varied by the Mayor or by Council resolution.

\* If, at the start of the Annual Meeting, the Mayor is absent and the Deputy Mayor (who is also the Mayor elect) is present, he or she may not preside over the election of Mayor and must absent himself or herself from the meeting until after the Council has dealt with that election. In these circumstances, the Joint Chief Executive, or another officer representing him or her, shall preside at the meeting for the election of Mayor only.



**2. SELECTION COUNCIL MEETING**

**2.1 Time and place**

- (a) The Council shall in every year hold a Selection meeting, which shall normally be held on the first Tuesday following the date of the Annual Meeting, commencing at 7pm.
- (b) Unless the Council shall otherwise direct, the Selection meeting shall be held at Millmead House, Millmead, Guildford.

**2.2 Business to be transacted at the Selection Meeting**

- (i) To choose a person to preside if the Mayor and Deputy Mayor are absent
- (ii) To receive any apologies for absence
- (iii) To receive and note any disclosable pecuniary interests from councillors
- (iv) To approve the minutes of the annual meeting
- (v) To receive any communications or announcements from the Mayor
- (vi) To elect a Leader for a four-year term of office (at the post-election Selection Council meeting)
- (vii) To receive any communications or announcements from the Leader of the Council
- (viii) To receive any questions, statements or petitions from the public in accordance with Public Speaking Procedure Rules
- (ix) To receive any questions from councillors in accordance with Council Procedure Rule 13
- (x) To decide which committees to establish for the municipal year;
- (xi) To decide the size and terms of reference of those committees;
- (xii) To decide the numerical allocation of seats to political groups on committees in accordance with the political balance rules
- (xiii) To make appointments to committees.
- (xiv) To make appointments to outside organisations, except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive. In an election year, such appointments may be deferred to the first ordinary meeting of the Council in the municipal year
- (xv) To consider any other business set out in the summons
- (xvi) To consider any motions in accordance with Council Procedure Rule 11
- (xvii) To authorise the sealing or signing of documents to give effect to any decisions taken

## PART 4 – COUNCIL PROCEDURE RULES

Notes:

- (1) Other than items (i) to (iv) above, the order of business may be varied by the Mayor or by Council resolution.
- (2) In relation to (vii) above, the Leader shall inform all councillors in advance of the meeting of any matters upon which he/she makes an announcement and councillors shall be given the opportunity of asking questions of the Leader in respect of any such announcement. Any such question or any response to such question shall not exceed three minutes.

### **3. ORDINARY COUNCIL MEETINGS**

#### **3.1 Time and place**

- (a) Ordinary meetings shall be held on such days as the Council may determine and shall normally commence at 7.00 pm.
- (b) Unless the Council shall otherwise direct, ordinary meetings shall be held at Millmead House, Millmead, Guildford.

#### **3.2 Business to be transacted at ordinary meetings**

- (i) To choose a person to preside if the Mayor and Deputy Mayor are absent
- (ii) To receive any apologies for absence
- (iii) To receive and note any disclosable pecuniary interests from councillors
- (iv) To approve the minutes of the last meeting
- (v) To receive any communications or announcements from the Mayor
- (vi) To receive any communications or announcements from the Leader of the Council
- (vii) To receive any questions, statements or petitions from the public in accordance with Public Speaking Procedure Rules
- (viii) To receive any questions from councillors in accordance with Council Procedure Rule 13
- (ix) To consider any other business set out in the summons
- (x) To consider any motions in accordance with Council Procedure Rule 11
- (xi) To authorise the sealing or signing of documents to give effect to any decisions taken

Notes:

- (1) Other than items (i) to (iv) above, the order of business may be varied by the Mayor or by Council resolution.
- (2) In relation to (vi) above, the Leader shall inform all councillors in advance of the meeting of any matters upon which he/she makes an announcement and councillors shall be given the opportunity of asking questions of the Leader in

## PART 4 – COUNCIL PROCEDURE RULES

respect of any such announcement. Any such question or any response to such question shall not exceed three minutes.

### 4. EXTRAORDINARY COUNCIL MEETINGS

#### 4.1 Calling extraordinary meetings

An extraordinary meeting of the Council may be called at any time by:

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

#### 4.2 Time and place

- (a) Extraordinary meetings shall be held on such days as may be determined by the Council or the Joint Chief Executive, in consultation with the Mayor and political group leaders, and shall normally commence at 7.00 pm.
- (b) Unless the Council or the Joint Chief Executive shall otherwise direct, extraordinary meetings shall be held at Millmead House, Millmead, Guildford.

#### 4.3 Business to be transacted at extraordinary meetings

- (i) To choose a person to preside if the Mayor and Deputy Mayor are absent
- (ii) To receive any apologies for absence
- (iii) To receive and note any disclosable pecuniary interests from councillors
- (iv) To receive any communications or announcements from the Mayor
- (v) To receive any communications or announcements from the Leader of the Council
- (vi) To receive only in relation to the business for which the extraordinary meeting has been called any questions, statements or petitions from the public in accordance with Public Speaking Procedure Rules
- (vii) To receive only in relation to the business for which the extraordinary meeting has been called any questions from councillors in accordance with Council Procedure Rule 13
- (viii) To consider the business for which the extraordinary meeting has been called. The Mayor may at his or her absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.
- (ix) To authorise the sealing or signing of documents to give effect to any decisions taken

## **PART 4 – COUNCIL PROCEDURE RULES**

Notes:

- (1) Other than items (i) to (iii) above, the order of business may be varied by the Mayor or by Council resolution.
- (2) In relation to (v) above, the Leader shall inform all councillors in advance of the meeting of any matters upon which he/she makes an announcement and councillors shall be given the opportunity of asking questions of the Leader in respect of any such announcement. Any such question or any response to such question shall not exceed three minutes.

### **5. NOTICE OF AND SUMMONS TO ATTEND COUNCIL MEETINGS AND ATTENDANCE BY THE PUBLIC**

- (a) The Joint Chief Executive will give notice to the public of the time and place of any Council meeting in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution. Where the meeting has been called by councillors, the notice shall specify the business to be transacted.
- (b) At least five clear working days before a meeting, the Joint Chief Executive will send a summons signed by him or her to every councillor or leave it at their usual place of residence. The summons will give the date, time and place of the meeting and specify the business to be transacted and will be accompanied by such reports as are available.
- (c) If a councillor gives notice in writing to the Democratic Services and Elections Manager that he or she desires summonses to attend meetings of the Council to be sent to some address other than his or her place of residence, any summons left at or sent by post to that address shall be deemed sufficient service of the summons.
- (d) Except in the case of business required by legislation and other business brought before a meeting as a matter of urgency, no business shall be transacted at a meeting of the Council other than that specified in the summons relating thereto.
- (e) The public shall be admitted to all meetings of the Council in accordance with the Access to Information Procedure Rules.

### **6. ALTERATION OR CANCELLATION OF A COUNCIL MEETING**

Following consultation with the Mayor and political group leaders, the Joint Chief Executive may:

- (i) alter the place, date or time previously fixed for a meeting provided that (except where such alteration arises from a matter outside the control of the Council when notice is to be given as soon as practicable) notice of such alteration is given at least five clear working days before the date of the meeting as originally fixed, or
- (ii) cancel a meeting in circumstances where there is insufficient business to be transacted.

### **7. MAYOR**

- (a) The Council shall elect a councillor to be Mayor on an annual basis.

## **PART 4 – COUNCIL PROCEDURE RULES**

- (b) The election of the Mayor shall be the first business transacted at the annual meeting of the Council
- (c) The Mayor shall, unless he or she resigns or becomes disqualified, continue in office until his or her successor becomes entitled to act as Mayor.
- (d) During his or her term of office, the Mayor shall continue to be a councillor notwithstanding the provisions of the Local Government Act 1972 relating to the retirement of councillors.
- (e) If, apart from paragraph (d) of this Rule, the person presiding at the commencement of the annual meeting would have ceased to be a councillor, he or she shall not be entitled to vote in the election of the Mayor except to give a casting vote in the case of an equality of votes.
- (f) In the case of an equality of votes, the person presiding at the meeting shall give a casting vote in addition to any other vote he or she may have.
- (g) The Mayor may attend any meeting of the Executive, a committee or sub-committee of the Council and speak on any item under consideration, but he or she may not vote unless appointed as an ordinary member of a committee (other than the Executive) or sub-committee.

### **8. DEPUTY MAYOR**

- (a) The Council shall appoint a councillor to be Deputy Mayor of the Council on an annual basis.
- (b) Unless he or she resigns or becomes disqualified, the Deputy Mayor shall hold office until the election of a Mayor at the next annual meeting of the Council and, during that time, shall continue to be a councillor notwithstanding the provisions of the Local Government Act 1972 relating to the retirement of councillors.
- (c) In the absence of the Mayor, the Deputy Mayor may exercise any power or duty of the Mayor.

### **9. CHAIRMAN OF MEETING**

- (a) At a meeting of the Council, the Mayor, if present, shall preside.
- (b) If the Mayor is absent from a meeting of the Council, the Deputy Mayor, if present, shall preside.
- (c) If both the Mayor and Deputy Mayor are absent from a meeting of the Council, then the Joint Chief Executive or another officer representing him or her shall initially preside and the first business of the meeting shall be to elect a councillor to take the chair and to preside over the rest of the meeting. The Chairman for the meeting shall not be the Leader of the Council or a member of the Executive.
- (d) Any power or duty of the Mayor in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

**10. QUORUM**

- (a) Subject to paragraph (b) below, no business shall be transacted at a meeting of the Council unless at least one-quarter (namely 12) of the whole number of councillors are present.
- (b) Where more than one-third of councillors become disqualified at the same time, then until the number of councillors in office is increased to not less than two-thirds of the whole number of councillors, the quorum of the Council shall be determined by reference to the number of councillors remaining qualified instead of by reference to the whole number of councillors.
- (c) If a quorum is not present after the expiration of thirty minutes from the appointed start time of the Council meeting, the Mayor shall declare that no meeting shall take place and shall direct that the meeting of the Council shall take place at such date and time as he or she may fix. If he or she does not fix a date and time, the business will be considered at the next ordinary meeting of the Council.
- (d) During any meeting, if the Mayor counts the number of councillors present and declares there is not a quorum present, the meeting will adjourn immediately and the remaining business will be considered at a time and date fixed by the Mayor or, if he or she does not fix a time and date at the next ordinary meeting of the Council.

**11. NOTICE OF MOTIONS**

**Motions to be set out in the Council Agenda**

- (a) Except for motions which can be moved without notice under Procedure Rule 12, written notice of every motion shall be delivered to the Democratic Services and Elections Manager not later than 12 noon on the seventh working day before the date of the meeting at which the motion is intended to be moved.
- (b) Every motion shall be relevant to some matter in relation to which the Council has powers or duties or which affects the Borough.
- (c) The Democratic Services and Elections Manager will, subject to (e) below, date and number the motion in the order in which it is received.
- (d) The Democratic Services and Elections Manager shall include the motion on the agenda in the order in which notice was received, unless the councillor giving such notice states in writing that he or she proposes to move it at some later meeting or withdraws it.
- (e) If the Joint Chief Executive has doubt as to the propriety of inserting the motion on the agenda, he or she will submit the motion to the Mayor and, if the Mayor considers that the motion is improper, out of order or not relevant to any question relating to the Council's powers or duties or to any matter affecting the Borough, the Mayor may direct the Joint Chief Executive to return the motion to the councillor who sent it stating that it will not be inserted on the agenda except upon the written request of five councillors.

**Motions not Moved**

- (f) If a motion set out on the agenda is not moved either by a councillor who gave the notice or by some other councillor on his or her behalf, it shall be treated as withdrawn and shall not be moved without fresh notice unless postponed by consent of the Council.

**Dealing with Motions at Council Meetings**

- (g) Unless a motion under Council Procedure Rule 12 (iv) is carried which has the effect of referring a motion of which notice has been given for consideration by the Leader/Executive or a committee, all such motions shall be dealt with by the Council at the meeting at which they are brought forward.

**Attendance of Mover and Seconder at Executive/Committee Meetings**

- (h) If a motion is referred by the Council to a meeting of the Executive or other committee, the mover and seconder of the motion shall have the right to attend the relevant meeting and to explain the motion.

**Number of Motions on the Agenda**

- (i) No councillor shall have more than two motions on the same agenda.

**12. MOTIONS WITHOUT NOTICE**

The following motions may be moved and seconded without notice:

- (i) to elect a chairman of the meeting at which the motion is moved;
- (ii) in relation to the accuracy of the minutes;
- (iii) to change the order of business in the agenda;
- (iv) to refer any matter for consideration by the Leader/Executive or a committee;
- (v) to appoint a committee and its membership or representatives where this arises from an item on the agenda for the meeting;
- (vi) to adopt any resolutions in relation to any business specified in the summons;
- (vii) to withdraw a motion;
- (viii) to extend the time limit for speeches;
- (ix) to amend a motion;
- (x) to postpone consideration of a motion;
- (xi) to proceed to next business;
- (xii) to take an immediate vote on a motion;
- (xiii) to adjourn a debate;
- (xiv) to adjourn a meeting;
- (xv) to authorise the sealing of documents;
- (xvi) to suspend a particular Procedure Rule;

## PART 4 – COUNCIL PROCEDURE RULES

- (xvii) to exclude the public in accordance with the Access to Information Procedure Rules;
- (xviii) to not hear further from a councillor named under Procedure Rule 16 (c) or to exclude them from the meeting;
- (xix) to invite a councillor to withdraw in accordance with the Councillors' Code of Conduct;
- (xx) to give the consent of the Council where its consent is required by this Constitution;
- (xxi) to carry out a statutory duty of the Council which, by reason of special circumstances, the Mayor is of the opinion should be considered at the meeting as a matter of urgency; and
- (xxii) to give guidance to the Leader/Executive or a committee in relation to a matter determined under delegated powers.

### 13. QUESTIONS BY COUNCILLORS

#### Spontaneous questions

- (a) A councillor may ask the Leader, a lead councillor or a chairman of a committee, as appropriate, any question upon any item of business on the agenda for the meeting when that item is under consideration by the Council.

#### Questions on notice

- (b) A councillor may:
  - (i) ask the Mayor, Leader, a lead councillor or the chairman of any committee any question on a matter in relation to which the Council has powers or duties or which affects the Borough provided that written notice, specifying the question, is delivered to the Democratic Services and Elections Manager by no later than 12 noon on the third working day before the date of the meeting of the Council at which the question is intended to be asked. For the avoidance of doubt, this means that if the meeting is held on a Tuesday, written notice of the question would need to be delivered by 12 noon on the Thursday of the previous week.
  - (ii) with the permission of the Mayor, put to him or her, the Leader, a lead councillor or chairman of any committee any question relating to urgent business of which notice has not been given. A copy of any such question shall be delivered to the Democratic Services and Elections Manager not later than twelve noon on the day of the meeting.
- (c) The person to whom a question has been put may decline to answer.
- (d) In response to a question under paragraph (b) above, the person to whom the question has been put will normally provide and circulate to all councillors at the meeting a written answer which, together with the question, shall also be recorded in the minutes.
- (e) A councillor asking a question under paragraph (b) above may without notice ask one supplementary question if such a question arises directly from the answer given.



## PART 4 – COUNCIL PROCEDURE RULES

- (f) Any councillor may without notice ask a question arising from the response(s) given on any matter raised under this Procedure Rule.
- (g) At the end of the debate on any matter raised under this Procedure Rule, the person to whom the question was put shall be given the opportunity to respond to any supplementary questions raised during the debate.
- (h) Any question or response under paragraph (b) of this Procedure Rule shall not exceed three minutes in length.
- (i) No councillor shall ask more than two questions under paragraph (b) above at the same meeting.

### 14. MINUTES OF COUNCIL MEETINGS

- (a) The minutes of every meeting of the Council shall be submitted to and signed at the next meeting of the Council (other than an extraordinary meeting).
- (b) The Mayor shall put the question that the minutes of the previous meeting of the Council be approved as a correct record.
- (c) No discussion shall take place upon the minutes, except upon their accuracy, and any questions of their accuracy shall be raised by motion. If no such question is raised or if it is raised, then as soon as it has been disposed of, the Mayor shall sign the minutes.
- (d) Where, in relation to any meeting of the Council, the next meeting for the purpose of signing the minutes is an extraordinary meeting, then the next ordinary meeting will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 to the Local Government Act 1972 relating to signing of minutes.
- (e) The minutes will contain all motions and amendments in the form and order in which the Mayor put them.

### 15. RULES OF DEBATE

#### Motions and Amendments

- (a) No speeches may be made until a motion or amendment has been proposed and seconded.
- (b) Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him or her before it is discussed.

#### Secunder's Speech

- (c) When seconding a motion or amendment, a councillor may reserve his or her speech until later in the debate.

#### Content and Length of Speeches

- (d) Speeches must be directed to the question under discussion or to a personal explanation or point of order.

## PART 4 – COUNCIL PROCEDURE RULES

- (e) Except as otherwise provided for in these Procedure Rules and subject to paragraphs (f and g) below, no speech shall exceed:
  - (i) ten minutes in respect of a mover of a motion
  - (ii) five minutes in respect of any other councillor speaking in the debate on a motion or amendment
  - (iii) ten minutes in the case of the mover of a motion exercising his or her right of reply at the end of the debate on the motion.
- (f) There shall be no time limit for:
  - (i) either the Leader of the Council or the lead councillors with responsibility for General Fund or Housing Revenue Account budgets in moving motions to approve those budgets and council tax; or
  - (ii), one spokesperson from each opposition group in commenting on the motions referred to in (i) above or moving an alternative budget.
- (g) The time limits specified in paragraph (e) above may be extended with the consent of the Council, which shall be given or refused without debate.

### **When a Councillor May Speak Again**

- (h) A councillor who has spoken on any motion shall not speak again whilst it is the subject of debate, except:
  - (i) to speak once on an amendment moved by another councillor;
  - (ii) to move a further amendment if the motion has been amended since he or she last spoke;
  - (iii) in exercise of a right of reply;
  - (iv) on a point of order; or
  - (v) by way of personal explanation.

### **Amendments to Motions**

- (i) No amendment shall be debated until after the debate on the original motion.
- (j) An amendment shall be relevant to the motion and will either be:
  - (i) to refer the matter to the Leader/Executive, an appropriate committee or other body for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words;

## PART 4 – COUNCIL PROCEDURE RULES

as long as the effect of (ii) to (iv) above is not to negate the motion.

If he or she deems it necessary, the Mayor shall read out the amended motion before the amendment is put.

- (k) Only one amendment may be moved and discussed at any one time and no further amendment shall be moved until the amendment under discussion has been disposed of, provided that the Mayor may permit multiple amendments to be discussed together if he/she thinks that this will facilitate the proper conduct of business, subject to separate votes being taken in respect of each amendment .
- (l) If an amendment is lost, other amendments to the original motion may be moved.
- (m) If an amendment is lost, no other amendment having a similar effect may be moved at the same meeting of the Council.
- (n) If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion to which any further amendments may be moved.

### **Alteration of Motions and Amendments**

- (o) With the consent of his or her seconder and of the meeting, which shall be signified without discussion, a councillor may alter:
  - (i) a motion of which he or she has given notice; or
  - (ii) a motion or an amendment which he or she has moved;if the alteration is one which could be made as an amendment to the motion.

### **Withdrawal of Motions and Amendments**

- (p) A councillor may withdraw a motion or amendment with the consent of his or her seconder and of the meeting, which shall be signified without discussion. No councillor may speak on the motion after the mover has asked permission for its withdrawal unless permission is refused.

### **Rights of Reply**

- (q) The mover of a motion has a right of reply at the end of the debate on the motion immediately before it is put to the vote.
- (r) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (s) The mover of the amendment shall have a right of reply immediately after the reply on the amendment by the mover of the original motion.
- (t) A councillor exercising a right of reply shall confine him or herself to answering previous speakers and shall not introduce new matters or material. The Mayor's ruling on this shall be final and not open to discussion.

**Motions which may be moved during debate**

- (u) When a motion is under debate, no other motion shall be moved except for the following procedural motions:
  - (i) to amend the motion;
  - (ii) to postpone consideration of the motion;
  - (iii) to adjourn the meeting;
  - (iv) to adjourn the debate;
  - (v) to proceed to the next business;
  - (vi) to take an immediate vote on the motion;
  - (vii) to not hear from a councillor named under Council Procedure Rule 16 (c) or to exclude them from the meeting under Council Procedure Rule 16(d); and
  - (viii) to exclude the public in accordance with the Access to Information Procedure Rules.

**Closure Motions**

- (v) A councillor may move, without comment, the following motions at the end of a speech of another councillor:
  - (i) to proceed to the next business;
  - (ii) to take an immediate vote on a motion;
  - (iii) to adjourn a debate;
  - (iv) to adjourn the meeting;
  - (v) to exclude the public from the meeting; or
  - (vi) that a councillor be not further heard.
- (w) On the seconding of a motion referred to in (v) above, the Mayor shall proceed as follows:

**To Proceed to Next Business**

- (i) On a motion to proceed to the next business, if the Mayor thinks that the matter before the meeting has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

**To Take an Immediate Vote on a Motion**

- (ii) On a motion to take an immediate vote on a motion, if the Mayor thinks that the matter before the meeting has been sufficiently discussed, he/she

## **PART 4 – COUNCIL PROCEDURE RULES**

shall first put the procedural motion to the vote. If the motion is passed, the Mayor will give the mover of the original motion a right of reply before putting the matter to the vote.

### **To Adjourn the Debate or Meeting**

- (iii) On a motion to adjourn the debate or the meeting, if in his or her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, the Mayor shall put the adjournment motion to the vote without giving the mover of the original motion his or her right of reply.

On resuming an adjourned debate, the councillor who moved the adjournment is entitled to speak first.

A second motion to adjourn the meeting shall not be made within a period of thirty minutes from the first motion unless moved by the Mayor.

A councillor moving the adjournment of the debate or the meeting must confine his or her observations to that question and no amendment can be proposed to that motion unless it relates to the time of adjournment.

### **To Exclude the Public**

- (iv) On a motion to exclude the public, unless the motion appears on the agenda, the Mayor shall ascertain the grounds for the motion and seek the advice of the Monitoring Officer as to whether members of the public may lawfully be excluded. If so, the Mayor will allow the mover of the original motion a right to reply on the proposal to exclude the public and then put the motion to the vote. If it is passed, the Mayor may, at his or her discretion, either immediately require the public to leave the room in which the debate is being held or adjourn the debate until some convenient time later in the meeting when the public shall have been excluded.

### **That a Councillor be Not Further Heard**

- (v) On a motion that a named councillor be not further heard, the Mayor shall put the motion to the vote without discussion from any councillor. If it is passed, the named councillor shall not be permitted to speak again during the meeting on any motion or amendment relating to the same matter.

### **Point of Order/Personal Explanation**

- (x) A point of order is a request from a councillor to the Mayor to rule on an alleged irregularity in the procedure of the meeting. A councillor may raise a point of order at any time and the Mayor shall hear it immediately.

A point of order shall relate only to an alleged breach of these Council Procedure Rules or the law. The councillor must indicate the Rule or law and the way in which he or she considers it has been broken.

A councillor may also make a personal explanation at any time and the Mayor shall hear it immediately. A personal explanation shall be confined to some material part of an earlier speech by the councillor, which may appear to have been misunderstood in the present debate.

## **PART 4 – COUNCIL PROCEDURE RULES**

The ruling of the Mayor on a point of order or the admissibility of a personal explanation is final and is not open to discussion.

### **Venue of Adjourned Meetings**

- (y) Any motion to adjourn a debate or a meeting of the Council may specify the place, date and time at which the adjourned debate or meeting shall take place. If such specification is not given, the venue, date and time of the adjourned debate or meeting shall be determined by the Mayor or Joint Chief Executive.

### **Closure of Meeting**

- (z) Unless otherwise decided by a majority of councillors present and voting at the meeting, all meetings shall finish by no later than 10.30pm. Any outstanding items not completed by the end of the meeting shall be adjourned to a reconvened meeting or the next ordinary meeting of the Council.

## **16. COUNCILLORS' CONDUCT**

### **Addressing the Mayor**

- (a) All councillors must address the Mayor when speaking during a Council meeting. If more than one councillor indicates a wish to speak, the Mayor will ask one to speak and determine the order in which the others may speak. Other councillors must remain silent whilst the Mayor or other councillor is speaking unless they wish to make a point of order or a point of personal explanation.

### **Mayor Standing**

- (b) When the Mayor stands during a debate, any councillor speaking at the time must stop. The meeting must be silent.

### **Councillor Not to be Heard Further**

- (c) If a councillor persistently disregards the ruling of the Mayor by continued irrelevance or tedious repetitions or by behaving improperly or offensively or by wilfully obstructing the business of the Council, the Mayor may direct the councillor to stop speaking or request him or her to leave for the remainder of the meeting or for any lesser period.

### **Councillor to Leave the Meeting**

- (d) If following a request to leave the meeting, the offending councillor does not retire, the Mayor may move "that the councillor named leave the meeting". The motion shall be put and determined without seconding or discussion. If carried, the Mayor shall give directions for the removal of the councillor and such other directions as are necessary for restoring order to the proceedings.

### **General Disturbance**

- (e) If there is general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he or she thinks necessary.

**Requirement for councillors with disclosable pecuniary interests to withdraw from meeting**

- (f) Any councillor present at a meeting who is aware that they have a disclosable pecuniary interest in any matter that will be, or is being, considered at that meeting, and who has not received a dispensation in respect of that interest must:
  - (i) disclose the nature of the interest to the meeting (or, if it is a sensitive interest as described in the code of conduct, disclose merely the fact that it is a disclosable pecuniary interest);
  - (ii) not participate in any discussion or vote regarding that matter; and
  - (iii) withdraw immediately from the room or chamber (including the public gallery) where the meeting considering that matter is being held.

**17. CONDUCT OF THE PUBLIC**

- (a) If a member of the public interrupts proceedings, the Mayor shall warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room. If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.
- (b) Where any meeting of the Council, is open to the public, any person shall, subject to paragraph (a) above, be permitted to attend for the purpose of reporting on the meeting and may use any communication method, including the internet, to publish, post or otherwise share the results of the person's reporting activities during the meeting. "Reporting" includes photographing or making a video or audio recording of proceedings at a meeting and providing commentary on proceedings using social media.
- (c) Paragraph (b) above does not require the Council to permit oral reporting or oral commentary on a meeting as it takes place if the person reporting or providing the commentary is present at the meeting.
- (d) Where the public have been excluded from a meeting in accordance with the Access to Information Procedure Rules, no person shall be permitted to report on the meeting using methods which can be used without that person's presence at the meeting, and which enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later.

**18. PREVIOUS DECISIONS AND MOTIONS**

No motion or amendment to rescind a decision made at a meeting of the Council within the past six months and no motion or amendment in similar terms to one which has been rejected at a meeting of the Council in the past six months can be moved unless the notice of motion is supported in writing by at least ten councillors. When any such motion or amendment has been dealt with by the Council, it shall not be open to any councillor to propose a similar motion or amendment within a further period of six months. This Procedure Rule shall not apply to motions

- (a) moved in pursuance of a recommendation of the Leader/Executive or a committee;

## PART 4 – COUNCIL PROCEDURE RULES

- (b) to carry out any statutory duty of the Council which, in the opinion of the Mayor, is of an urgent nature.

### 19. VOTING

#### Majority

- (a) Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those councillors present and voting at the time the question was put.

#### Casting Vote

- (b) If there are equal numbers of votes for and against, the Mayor or person presiding at the meeting shall have a second or casting vote. There will be no restriction on how the Mayor or person presiding chooses to exercise a casting vote. Where the Mayor or person presiding chooses not to use his/her second or casting vote to produce a majority in favour of or against the proposition, then in such case the proposition shall be deemed to be lost for want of a majority.

#### Show of Hands

- (c) Unless a recorded vote is demanded under paragraph (d) below, the Mayor will take the vote by show of hands or by the use of such electronic voting system as the Council shall determine or, if there is no dissent, by the affirmation of the meeting.

#### Recorded Vote

- (d) On the request of any councillor made before the vote is taken and upon four other councillors signifying their support at the meeting, the voting on any question shall be by roll-call and shall be recorded in the minutes of the meeting to show how each councillor present and voting cast their vote. The name of any councillor present and not voting will also be recorded. A recorded vote shall be taken at a meeting of the Council in respect of any motion or amendment to approve the budget or set council tax.

#### Recording of Individual Vote

- (e) Immediately after a vote is taken at a meeting of the Council, Executive or any committee or sub-committee, any councillor may require that the minutes show whether they voted for or against the motion or whether they abstained from voting.

#### Voting on Appointments

- (f) If there are more than two people nominated for any position to be filled and there is not a clear majority 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.

#### Result of Votes

- (g) The Mayor shall ascertain the numbers voting for or against any matter and his or her declaration as to the result shall be conclusive.



**20. RECORD OF ATTENDANCE**

The names of all councillors and co-opted members present during the whole or part of a meeting shall be recorded. Every councillor and co-opted member attending a meeting of the Council or Executive or a committee or sub-committee of which he or she is a member shall sign his or her name on the attendance sheet provided for that purpose.

**Part B – Election of Leader and appointment of Deputy Leader and lead councillors**

**21. ELECTION OF LEADER OF THE COUNCIL AND APPOINTMENT OF DEPUTY LEADER AND LEAD COUNCILLORS**

**Election of the Leader of the Council**

- (a) The Leader of the Council shall be elected by councillors at the Selection Council meeting after the post-election annual meeting. The Leader's term of office shall, subject to Article 6 of this Constitution, be four years ending on the day of the next post-election annual meeting.
- (b) A councillor proposing to nominate another councillor as Leader must notify the Democratic Services and Elections Manager of their nomination before the meeting at which the election is to be held. The Democratic Services and Elections Manager will report any nominations received at the meeting.
- (c) If more than one councillor is nominated, the election of the Leader shall be by show of hands.

**Appointment of the Deputy Leader and lead councillors**

- (d) As soon as practicable following the election of the Leader, the Leader of the Council shall appoint a Deputy Leader and such lead councillors as the Leader shall from time to time determine and determine their respective areas of responsibility.
- (e) The Leader may at any time alter the areas of responsibility of any lead councillor or discontinue their appointment and appoint a replacement.
- (f) The Leader shall report to the next appropriate meeting of the full Council on all such appointments and changes to areas of responsibility.

**Part C – Committee Meetings**

**22. THE EXECUTIVE, COMMITTEES AND SUB-COMMITTEES TO REGULATE THEIR OWN PROCEDURES**

- (a) The Executive and each committee and sub-committee shall, subject to any limitation imposed by these Council Procedure Rules or by resolution of the Council, regulate its own procedure, provided always that:

## PART 4 – COUNCIL PROCEDURE RULES

- (i) Procedure Rule 15 (Rules of Debate)
- (ii) Procedure Rule 19 (Voting) (except paragraph (d))

shall apply at the chairman's discretion to the conduct of debate and proceedings at meetings.

- (b) Procedure Rules 16 and 17 relating to the conduct of councillors and behaviour of persons admitted to meetings shall apply to all meetings of the Executive, committees and sub-committees.

### 23. APPOINTMENT OF COMMITTEES

- (a) At the Selection Council meeting each year, the Council shall appoint such committees as it shall determine and shall agree their respective size and terms of reference.

#### Allocation of Seats on Committees

- (b) Except in relation to the Licensing Committee and its sub-committees where the Council shall have absolute discretion as to whether they are politically balanced, the membership of each of the Council's committees and sub-committees shall be in accordance with statutory requirements for political balance. As far as possible, the number of seats allocated to a political group on committees and sub-committees will reflect the size of that group in proportion to the total Council membership.
- (c) The Council shall review the allocation of seats on committees to political groups at its Selection meeting and as soon as reasonably practicable following any change in the political constitution of the Council or as otherwise required by statute.
- (d) Wherever such a review is required, the Democratic Services and Elections Manager will submit a report to the Council showing what allocation of seats would best meet the requirements for political balance.

#### Appointments to Committees

- (e) Whenever an appointment of a member or substitute member of a committee or sub-committee falls to be made in accordance with the wishes of a political group to whom the seat has been allocated or whenever such an appointment falls to be terminated in accordance with such wishes, the Joint Chief Executive shall make or terminate such appointments in accordance with the wishes of that political group.

The wishes of a political group are taken to be those expressed to the Joint Chief Executive in writing by (a) the leader of the political group or (b) in a statement to the Joint Chief Executive supported in writing by a majority of the members of that group. In the event that different wishes of a political group are notified in accordance with (a) and (b) above, the wishes notified in accordance with (b) shall prevail.

No member of a committee shall be appointed so as to hold office later than the next annual meeting of the Council.

**Appointment, Dissolution and Alteration of Membership of Committees**

- (f) The Council may, at any time:
  - (i) appoint such committees as it considers necessary to carry out its non-executive functions; and
  - (ii) dissolve a committee or alter its size.
- (g) The following committees shall be constituted in the manner specified:
  - (i) Corporate Governance and Standards Committee (7 councillors and up to 3 co-opted independent members and up to 3 co-opted parish members in accordance with Article 10 of this Constitution)  

(The Corporate Governance and Standards Committee has established two sub-committees: the Assessment Sub-Committee and the Hearings Sub-Committee, each of which shall comprise five members drawn on a “panel” basis from the voting membership of the Corporate Governance and Standards Committee in accordance with Article 10 of this Constitution).
  - (ii) Licensing Committee (15 councillors)  

(The Licensing Committee has established two sub-committees: the Licensing Sub-Committee and the Licensing Regulatory Sub-Committee, each of which shall comprise three members drawn on a “panel” basis from the membership of the Licensing Committee)
  - (iii) Overview and Scrutiny Committee (12 non-Executive councillors)
  - (iv) Planning Committee (15 councillors)
  - (v) Community Executive Advisory Board (12 non-Executive councillors)
  - (vi) Resources Executive Advisory Board (12 non-Executive councillors)

**Appointment of Sub-Committees**

- (h) A committee may, at any time:
  - (i) appoint such sub-committees as it considers necessary, including the membership thereof, to carry out the work of the committee; and
  - (ii) dissolve a sub-committee or alter its size.

**Joint Committees**

- (i) The following joint committees shall be constituted in the manner specified:
  - (i) Guildford and Waverley Joint Governance Committee (comprising the Leader of the Council plus 5 other Guildford Borough councillors and the Leader of Waverley Borough Council plus 5 other Waverley Borough councillors)

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- (ii) Guildford and Waverley Joint Senior Staff Committee (comprising the Leader of the Council plus 2 other Guildford Borough councillors and the Leader of Waverley Borough Council plus 2 other Waverley Borough councillors)

### Substitute Members

- (j) In respect of each committee specified in the table below, the Council may appoint such substitute members for each political group on the Council as may be indicated in the second column thereof in accordance with the wishes of the political group.

Committee	Maximum number of substitute members for each political group on the Council to be appointed
Corporate Governance and Standards Committee	Three
Overview and Scrutiny Committee	No limit
Planning Committee	Five
Community Executive Advisory Board	Seven
Resources Executive Advisory Board	Seven
Guildford & Waverley Joint Governance Committee	The respective Group Leaders shall nominate an ongoing main substitute. Any appointed member of the Joint Governance Committee may be substituted by any other member of their political group on the council they represent.
Guildford & Waverley Joint Senior Staff Committee	The relevant Political Group Leader may appoint a Substitute Member, from the same Council, provided that prior written notice of such substitution is given to the Monitoring Officer by 5pm the working day prior to the meeting.

No substitute members shall be appointed in respect of the Executive or Licensing Committee.

Such substitute may take the place with the right to speak and vote of any member of that political group who is a member of the particular committee or sub-committee for the meeting (or part of the meeting) when such councillor is absent, subject to:

- (i) the substitution being notified to the Democratic Services and Elections Manager or his or her nominee:
- when the first item is called on the agenda;
  - at the commencement of a reconvened meeting; or

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- immediately upon the substitute member arriving at the meeting; and
- (ii) in the event of the member arriving after the substitution has been made, he or she shall resume membership of the committee or sub-committee at the commencement of the next item of business and the substitute member shall forthwith cease to be a member of the committee or sub-committee.

Such substitution shall not be used in relation to a specific item, but only to cover the absence of a councillor from the whole or part of a meeting.

### 24. APPOINTMENT OF WORKING GROUPS AND TASK GROUPS

#### Working groups appointed by the Leader, a Lead Councillor, or the Executive

##### Appointment, terms of reference, composition and duration

- (a) The Leader, a lead councillor, or the Executive (“the appointing body”) may appoint working groups for such purpose(s) as they shall specify, provided that no such working group shall exercise decision-making powers.
- (b) The appointing body shall determine:
  - (i) the terms of reference of a working group,
  - (ii) the number of councillors on a working group,
  - (iii) whether such working group should be cross-party (i.e. include councillors from more than two political groups), and
  - (iv) the time for which the working group is expected to operate
- (c) The appointing body may appoint individual councillors to a working group, or ask political group leaders to nominate councillors for membership of a working group in accordance with the number of seats each political group has been allocated to that working group.
- (d) Membership of a working group will normally comprise councillors but the appointing body may, if they consider it appropriate, appoint officers of the Council or persons from outside the authority to a working group, but only in an advisory capacity.

##### Appointment of Chairman

- (e) The appointing body shall have absolute discretion over the appointment of chairman of a working group.

##### Substitutes

- (f) Unless otherwise decided by the appointing body, substitutes are permitted to serve as members of working groups at any meeting at which another member of the same political group is absent for the entire meeting.

##### Who may attend meetings of working groups

- (g) A councillor shall not be entitled to attend meetings of working groups unless appointed as a member or substitute or with the agreement of the Chairman of the working group.

- (h) The public may not attend meetings of working groups.

**Proceedings to remain Confidential**

- (i) The proceedings of meetings of working groups, including any written material circulated to or considered by a working group, will remain confidential until they have been made public with the authority of the appointing body.

**Reporting back to the appointing body**

- (j) A working group shall, periodically, report back the results of their work, including recommendations where appropriate, to the appointing body.

**Annual review**

- (k) Continuation of working groups to be reviewed annually by the appointing body.

**Task groups appointed by the Council, a committee or Executive Advisory Board**

**Appointment, terms of reference, composition and duration**

- (l) The Council, or any committee, or Executive Advisory Board (“the appointing body”) may appoint task groups for such purpose(s) as they shall specify, provided that no task group shall exercise decision-making powers.
- (m) The appointing body shall determine:
- (i) the terms of reference of a task group,
  - (ii) the number of councillors on a task group,
  - (iii) whether such task group should be cross-party (i.e. include councillors from more than two political groups), and
  - (iv) the time for which the task group is expected to operate
- (n) The appointing body may appoint individual councillors to a task group, or ask political group leaders to nominate councillors for membership of a task group in accordance with the number of seats each political group has been allocated to that task group.
- (o) Membership of a task group will normally comprise councillors, but the appointing body may, if it considers it appropriate, appoint officers of the Council or persons from outside the authority to a task group, but only in an advisory capacity.

**Appointment of Chairman**

- (p) Each task group shall elect its own chairman in such manner as they may determine.

**Substitutes**

- (q) Unless otherwise decided by the appointing body, substitutes are permitted to serve as members of task groups at any meeting at which another member of the same political group is absent for the entire meeting.

**Who may attend meetings of task groups**

- (r) A councillor shall not be entitled to attend meetings of task groups unless appointed as a member or substitute or with the agreement of the Chairman of the task group.
- (s) The public may not attend meetings of task groups.

**Proceedings to remain Confidential**

- (t) The proceedings of meetings of task groups, including any written material circulated to or considered by a task group, will remain confidential until they have been made public with the authority of the appointing body.

**Reporting back to the appointing body**

- (u) A task group shall, periodically, report back the results of their work, including recommendations where appropriate, to the appointing body.

**Annual review**

- (v) Continuation of task groups to be reviewed annually by the appointing body.

**25. EXERCISE OF POWERS AND FUNCTIONS**

No individual councillor, officer or group of councillors or officers (or both) shall be entitled to exercise any power or function of the Council save as already or hereafter delegated to them by the Council, Leader/Executive or a committee exercising a power or fulfilling a function on behalf of the Council or as detailed in this Constitution.

**26. DELEGATION TO COMMITTEES AND SUB-COMMITTEES**

- (a) There shall be delegated to committees and sub-committees for determination such matters as the Council or legislation may from time to time prescribe.
- (b) In relation to any matter determined by a committee or sub-committee acting under delegated powers, it shall not be open to the Council or parent committee of a sub-committee to negate or amend any resolution passed, but the Council or parent committee may give guidance as to the manner in which the same or a similar matter shall be dealt with in future providing that such guidance shall not have the effect of causing the Council to breach the rules of natural justice or of prejudicing the determination by the committee or sub-committee of any matter required to be judged on its individual merits or of fettering the discretion of the committee or sub-committee in respect of any such matter .
- (c) In order for a planning application to be referred to the full Council for determination in its capacity as the Local Planning Authority, a councillor must first with a seconder, write to or email the Democratic Services and Elections Manager detailing the rationale for the request (the proposer and seconder do not have to be members of the Planning Committee).

The Democratic Services and Elections Manager shall inform all councillors by email of the request to determine an application by full Council, including the rationale provided for that request. The matter would then be placed as an

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agenda item for consideration at the next Planning Committee meeting. The proposer and seconder would each be given three minutes to state their case. The decision to refer a planning application to the full Council will be decided by a majority vote of the Planning Committee.

### 27. QUORUM OF THE EXECUTIVE, COMMITTEES AND SUB-COMMITTEES

- (a) Except where authorised by statute or ordered by the Council, the number of voting members who shall form a quorum of the Executive or a committee or sub-committee shall be fixed in accordance with the following table:

Number of Voting Members on Committee or Sub-Committee	Number of Voting Members forming quorum
15 or more	5
11-14	4
10 or fewer	3

- (b) If during any meeting of the Executive or a committee or sub-committee, the chairman declares that there is not a quorum present, the meeting shall stand adjourned to a place, date and time fixed by the chairman at the time the meeting is adjourned or if he or she does not fix a place, date and time, to the next ordinary meeting of the Executive, committee or sub-committee.

### 28. ATTENDANCE OF NON-MEMBERS AT THE EXECUTIVE, COMMITTEES AND SUB-COMMITTEES AND ADMISSION OF PUBLIC

#### Attendance by Mover of Motion

- (a) A councillor who has moved a motion which has been referred to the Leader/ Executive or a committee shall be given notice by the Democratic Services and Elections Manager of the meeting at which it is proposed to consider the motion. He or she shall have the right to attend the meeting and explain the motion.

#### Attendance of Councillors at Meetings

- (b) A councillor shall have a right to attend meetings of the Executive or a committee or sub-committee on which he or she has not been appointed to serve.
- (c) A councillor shall not be permitted to speak at meetings of the Executive or a committee or sub-committee on which he or she has not been appointed to serve except with the permission of the chairman or as allowed by paragraph (a) of this Procedure Rule and such councillor shall not be entitled to vote on any item under consideration.

#### Leader of the Council

- (d) The Leader of the Council may attend any meeting of a committee or sub-committee and speak on any item under consideration as of right, but he or she may not vote unless appointed as an ordinary member of that committee or sub-committee.



**Admission of Public**

- (e) The public shall be admitted to all meetings of the Executive, committees and sub-committees in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.

**29. ELECTION OF CHAIRMEN AND VICE-CHAIRMEN OF COMMITTEES**

**Election of Chairman and Vice-Chairmen of Committees and Sub-Committees**

- (a) At the Selection Meeting each year, and following the appointment of committees, the Council shall elect the chairmen and vice-chairmen of all committees, including the executive advisory boards, and any sub-committees of those committees for the ensuing municipal year. Nominations for election of committee and sub-committee chairmen and vice-chairmen shall be submitted to the Democratic Services and Elections Manager in advance of the Selection Meeting at the same time as nominations are submitted for appointments to committees. If two candidates are nominated, the election shall be determined in accordance with paragraph (c) of Council Procedure Rule 19. If there are more than two candidates nominated, the election shall be determined in accordance with paragraph (f) of Council Procedure Rule 19, subject to the election being decided by the drawing of lots in the event of a tied vote of the two remaining candidates.

- (b) If, during the course of a municipal year, a councillor

- (i) resigns from the office of chairman or vice-chairman of a committee or sub-committee, or
- (ii) is no longer appointed as a member of the committee or sub-committee to which he or she was elected chairman or vice-chairman, or
- (iii) resigns as a councillor, or
- (iv) becomes disqualified,

the election of his or her successor for the remainder of that municipal year shall be conducted by the Committee at its next meeting.

**Absence of Chairman and Vice-Chairman**

- (c) At a meeting of a committee, the chairman, if present, shall preside.
- (d) If the chairman is absent from a meeting, the vice-chairman, if present, shall preside.
- (e) In the absence from a meeting of the chairman and vice-chairman, a chairman for that meeting shall be elected from among the voting members of the committee.
- (f) Any power or duty of the chairman in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

**30. NO CONFIDENCE IN THE CHAIRMAN**

- (a) At any meeting of a committee or sub-committee, a councillor who is a member of that committee or sub-committee may propose that “the meeting has no confidence in the chairman”. The question shall after debate be put and, if

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carried by a majority of at least two thirds of the voting councillors present, the chairman shall stand down and the remainder of the meeting shall be chaired by the vice-chairman or, in his or her absence (or if he or she was the chairman subject to the vote) by a councillor elected for that purpose by the meeting.

- (b) Following an affirmative vote of no confidence in the chairman, he or she shall not officiate at any subsequent meeting of the committee or sub-committee prior to the next meeting of the Council. At that meeting, the Council shall consider whether to confirm the vote of no confidence. If by a simple majority they shall decide to confirm the vote, the office of chairman of the relevant committee or sub-committee shall be declared vacant, and a new chairman shall be elected by full Council at that meeting.

### 31. MEETINGS OF THE EXECUTIVE, COMMITTEES AND SUB-COMMITTEES

#### Date and Time of Meetings

- (a) Ordinary meetings of the Executive, committees and sub-committees shall be held on such days and at such times as the Council or the Executive, committee or sub-committee concerned may fix.

#### Length of Meetings

- (b) Unless otherwise decided by a majority of councillors present and voting at the meeting, all meetings shall finish by no later than 10.30pm.

Any outstanding items not completed by the end of the meeting shall be adjourned to a reconvened meeting or the next ordinary meeting of the Executive, committee or sub-committee.

#### Calling Special Meetings

- (c) The chairman of the Executive or a committee or sub-committee may call a special meeting at any time. A special meeting shall also be called on the requisition of not less than 5 members of the Executive or committee (or in the case of a sub-committee by 3 members of the sub-committee) delivered in writing to the Democratic Services and Elections Manager. The time and place of special meetings shall be agreed by the chairman after consultation with appropriate group leaders and/or spokesmen.

#### Venue of Meetings

- (d) Subject to paragraph (i) below, meetings of the Executive, committees and sub-committees shall be held at Millmead House, Guildford, or at such other place as the Executive, committee or sub-committee concerned shall determine.

#### Notice of and Summons to Attend Meetings

- (e) The Joint Chief Executive will give notice to the public of the time and place of any Executive, committee or sub-committee meeting in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution. Where a special meeting has been called by councillors, the notice shall specify the business to be transacted.
- (f) At least five clear working days before a meeting, the Joint Chief Executive shall send a summons to attend meetings of the Executive, committees and sub-committees to each member (and, where applicable, substitute member) of the

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Executive, committee or sub-committee (as the case may be) so that it is received at the usual place of residence of such councillor, or at such other place as may be requested by that councillor. The summons will give the date, time and place of the meeting and specify the business to be transacted and will be accompanied by such reports as are available.

- (g) No item of business shall be considered at a meeting of the Executive or a committee or sub-committee unless the provisions of the Local Government Acts 1972 and 2000 have been complied with in relation thereto.
- (h) No business other than that set out in the summons shall be considered at a special meeting of the Executive or a committee or sub-committee.

### **Alteration or Cancellation of Meeting**

- (i) Following consultation with the chairman and, where applicable, group spokesmen of the Executive, committee or sub-committee concerned or group leaders, the Joint Chief Executive may:
  - (i) alter the place, date or time previously fixed for a meeting provided that (except where such alteration arises from a matter outside the control of the Council when notice is to be given as soon as practicable) notice of such alteration is given at least five clear working days before the date of the meeting as originally fixed, or
  - (ii) cancel a meeting in circumstances where there is insufficient business to be transacted.

### **32. PROCEEDINGS OF THE EXECUTIVE, COMMITTEES AND SUB-COMMITTEES TO BE CONFIDENTIAL**

All summonses (including items of business mentioned therein), reports and other documents and all proceedings of the Executive, committees and sub-committees shall be treated as confidential unless and until they become public in the ordinary course of the Council's business.

## **Part D – Suspension, Amendment and Interpretation of Council Procedure Rules**

### **33. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

- (a) Any motion to amend or revoke (but not to suspend) these Council Procedure Rules shall when proposed and seconded be referred without discussion to the next meeting of the Council for consideration.
- (b) Any of these Council Procedure Rules, other than those governed by statutory provisions, may be suspended as regards any business at the meeting where its suspension is moved.

### **34. INTERPRETATION OF PROCEDURE RULES**

- (a) The ruling of the Mayor in relation to the Council and the ruling of the chairman in relation to the Executive and all committee and sub-committee meetings as to the construction or application of any of these Procedure Rules, or as to any

## **PART 4 – COUNCIL PROCEDURE RULES**

proceedings of the Council, Executive, committees or sub-committees shall not be challenged at any meeting.

- (b) The ruling of the Monitoring Officer as to the interpretation of these Procedure Rules and terms of reference in respect of the allocation of business to the Council, Executive, committees and sub-committees shall be final.

## GUILDFORD BOROUGH COUNCIL

### PUBLIC SPEAKING PROCEDURE RULES

#### 1. CONDUCT EXPECTED OF PUBLIC SPEAKERS AT ANY COUNCIL, EXECUTIVE OR COMMITTEE MEETING

Public speakers will be expected to conduct themselves in an orderly manner and, in making their speeches, they should be mindful of the need to avoid making public statements that could be construed to be defamatory, frivolous or offensive and should refrain from making allegations regarding the conduct of individual councillors or officers.

#### 2. PUBLIC PARTICIPATION AT COUNCIL MEETINGS

- (a) At meetings of the Council up to 30 minutes shall be allocated to receiving questions and statements from members of the public.

##### Questions

- (b) Members of the public may ask the Mayor, the Leader, a lead councillor or a chairman of a committee questions relevant to any item on the agenda for the meeting or to the functions, powers, or duties of the Council at ordinary meetings of the Council, subject to the following conditions:
- (i) A member of the public may ask only one question at a meeting.
  - (ii) In relation to each meeting at which a member of the public wishes to ask a question, notice specifying the question must be given in writing by the questioner and received by the Democratic Services and Elections Manager not later than twelve noon on the third working day before the day of the meeting. For the avoidance of doubt, this means that if the meeting is held on a Tuesday, written notice of the question would need to be delivered by 12 noon on the Thursday of the previous week.
  - (iii) In cases where there is any doubt as to whether a question is relevant to the functions, powers or duties of the Council, the Council Solicitor and Monitoring Officer shall determine whether they are accepted. The Democratic Services and Elections Manager, in consultation with the Mayor, Leader, appropriate lead councillor or chairman and questioner, may re-word any question to bring it into proper form and to secure brevity.
  - (iv) In response to a question, the councillor to whom the question has been put will normally provide and circulate to the questioner and all councillors at the meeting a written answer which, together with the question, shall also be recorded in the minutes.
  - (v) The questioner may, without notice, ask one supplementary question if such a question arises from the answer given. If the questioner is unable to attend the meeting due to unforeseen circumstances then they may, with the Mayor's consent, nominate a spokesperson to ask the supplementary question.

## PART 4 – PUBLIC SPEAKING PROCEDURE RULES

- (vi) Questions, including any supplementary questions, will be asked and answered without discussion.
- (vii) The Mayor, Leader, lead councillor or chairman may decline to answer a question, or nominate another councillor to answer it on their behalf.
- (viii) Any question or response under this Procedure Rule shall not exceed three minutes in length.

### Statements

- (c) As an alternative to asking a question, a member of the public may address the Council for a period not exceeding three minutes on matters relevant to any item on the agenda for the meeting or to the functions, powers, or duties of the Council, subject to the following conditions:
  - (i) In relation to each meeting at which a member of the public wishes to speak and following publication of the agenda, notice, including a summary of the subject matter, must be given in writing by the person to the Democratic Services and Elections Manager not later than twelve noon one working day before the day of the meeting.
  - (ii) That speakers wishing to use visual aids during their speeches shall submit them to the Democratic Services and Elections Manager no later than 12 noon one working day before the meeting.
  - (iii) If a speaker is unable to attend the meeting due to unforeseen circumstances then, with the consent of the Mayor, they may nominate a spokesperson to speak for them
  - (iv) The Leader, relevant lead councillor or chairman shall be entitled to respond to the statement and this shall not exceed three minutes in length.

### Presentation of Petitions

- (d) See Petition Scheme in the Appendix to the Public Speaking Procedure Rules.

## 3. PUBLIC PARTICIPATION AT MEETINGS OF THE EXECUTIVE AND COMMITTEES

### Questions

- (a) Subject to (c) below, members of the public may submit a question to the Leader/Executive or to the chairman of any committee on any item included on the public agenda, subject to the following conditions:
  - (i) A member of the public may ask only one question at a meeting.
  - (ii) that, following publication of the agenda for the relevant meeting, notice must be given in writing by the person concerned to the Democratic Services and Elections Manager by twelve noon on the third working day before a meeting stating on which item they wish to ask a question. For the avoidance of doubt, this means that if the meeting is held on a Tuesday, written notice of the question would need to be delivered by 12 noon on the Thursday of the previous week.

## PART 4 – PUBLIC SPEAKING PROCEDURE RULES

- (iii) The Democratic Services and Elections Manager, in consultation with the chairman may re-word any question to bring it into proper form and to secure brevity.
- (iv) In response to a question, the councillor to whom the question has been put will normally provide and circulate to the questioner and all councillors at the meeting a written answer which, together with the question, shall also be recorded in the minutes
- (v) The questioner may, without notice, ask one supplementary question if such a question arises from the answer given.
- (vi) If the questioner is unable to attend the meeting due to unforeseen circumstances then, with the consent of the chairman, they may nominate a spokesperson to ask a supplementary question.
- (vii) The Leader, lead councillor or chairman may decline to answer a question. If appropriate, the Chairman may nominate the most appropriate councillor or officer present to provide a response to a question, or supplementary question from a member of the public.
- (viii) Questions, including any supplementary questions, will be asked and answered without discussion.
- (ix) Any question or response under this Procedure Rule shall not exceed three minutes in length.

### Statements

- (b) As an alternative to asking a question, a member of the public may address the Executive or any committee<sup>1</sup> for a period not exceeding three minutes on a matter relevant to an item on the public agenda:
  - (i) In relation to each meeting at which a member of the public wishes to speak and following publication of the agenda, notice, including a summary of the subject matter, must be given in writing by the person to the Democratic Services and Elections Manager not later than twelve noon one working day before the day of the meeting.
  - (ii) that speakers wishing to use visual aids during their statements shall submit them to the Democratic Services and Elections Manager no later than 12 noon one working day before the meeting
  - (iii) that statements can be up to three minutes duration or longer only at the chairman's discretion and councillors be afforded the opportunity to ask questions of the public speakers;
  - (iv) that speakers do not engage in further debate once their statements have been made;
  - (v) that there is a maximum of six speakers on any one agenda item

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<sup>1</sup> See paragraph (c) below for public speaking rules applicable to consideration of planning or related applications by the Planning Committee

## PART 4 – PUBLIC SPEAKING PROCEDURE RULES

- (vi) if a speaker is unable to attend the meeting due to unforeseen circumstances then, with the consent of the chairman, they may nominate a spokesperson to speak for them
- (vii) that speakers be taken in the order in which they have registered; and
- (viii) that statements precede the formal debate on each item by the Executive or committee concerned.

### **Speaking at Planning Committee Meetings on Planning and Related Applications**

- (c) Any person wishing to address the Planning Committee on any item on the public agenda on a planning or related application may do so, provided that the qualifying number of representations have been received and subject to the following conditions:
  - (i) that, following publication of the agenda for the relevant meeting, notice must be given in writing by the person concerned to the Democratic Services and Elections Manager by twelve noon one working day before a meeting stating on which item(s) they wish to speak;
  - (ii) that a maximum of four persons (two speaking in opposition to and two speaking in support of an application) be permitted with each speaker being entitled to speak, for up to three minutes duration, on any one item;
  - (iii) that speeches precede the Committee's formal debate of each item;
  - (iv) that speakers do not engage in further debate once their speeches have been made;
  - (v) if a speaker is unable to attend the meeting due to unforeseen circumstances then, with the consent of the chairman, they may nominate a spokesperson to speak for them;
  - (vi) that speakers shall not use visual aids during their presentations and shall not circulate material to councillors at the meeting;
  - (vii) that there shall be no public speaking on an application previously deferred by the Committee (e.g. for a site visit) when that application is resubmitted for consideration;
  - (xiii) that speakers have, in the opinion of the Democratic Services and Elections Manager, complied in all respects with such detailed scheme as may be approved by the Council from time to time.

Any person wishing to address the Planning Committee on any item on the public agenda not relating to a planning or related application may do so, subject to conditions in paragraph (b) above.

### **Presentation of Petitions to Leader/Executive and other committees**

- (d) See Petition Scheme in the Appendix to the Public Speaking Procedure Rules.



## **PART 4 – PUBLIC SPEAKING PROCEDURE RULES**

### **Presentation of Petitions on Planning and Related Applications**

- (e) Any petition submitted to the Council in respect of a planning or related application shall count as a single representation for the purpose of calculating the qualifying number of representations to facilitate public speaking at Planning Committee meetings referred to in paragraph (c) of this Procedure Rule.
- (f) A petition in respect of a planning or related application may be presented to the Planning Committee but no public speaking will be triggered by the presentation of the petition.

### **Invitation to Address Meetings**

- (g) In addition to the provisions outlined above, the Leader/Executive or any committee may invite people other than officers and councillors to address them, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and councillors and officers in other parts of the public sector and may invite such people to attend.

## **4. SUSPENSION AND AMENDMENT OF PUBLIC SPEAKING PROCEDURE RULES**

- (a) Any motion to amend or revoke (but not to suspend) these Public Speaking Procedure Rules shall when proposed and seconded be referred without discussion to the next meeting of the Council for consideration.
- (b) Any of these Public Speaking Procedure Rules may be suspended as regards any business at the meeting where its suspension is moved.

# Guildford Borough Council Petition Scheme

## Background

Subject to section 3 below, this scheme applies to all petitions submitted to the Council. Any petition that contains fewer than 50 signatures, or does not meet the guidelines within the scheme, will be deemed to be standard correspondence and receive a response within ten working days from the relevant strategic director/executive head of service setting out what action he/she intends to take in relation to the petition.

See **Section 12** for submitting a petition in relation to Borough Council matters coming within the purview of the Guildford Joint Committee.

## 1. Petitions

- 1.1 The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. Anyone who lives, works or studies in the Borough may sign or organise a petition and trigger a response. This includes anyone under the age of 18.
- 1.2 All petitions submitted to the Council will receive a written acknowledgement from the Council within ten working days of receipt. This acknowledgement will set out what we plan to do with the petition.
- 1.3 E-petitions must be created, signed and submitted online through the Council's e-petitions facility: [Submit your petition - Guildford Borough Council](#). The Council will not accept e-petitions hosted by third parties (for example, Change.org), or accept as paper petitions information about e-signatories downloaded from third party e-petition hosts.
- 1.4 Alternatively, paper petitions can be sent to:

Democratic Services and Elections Manager  
Guildford Borough Council  
Millmead House  
Millmead  
GUILDFORD  
Surrey GU2 4BB

## 2. What are the guidelines for submitting a petition?

- 2.1 Petitions submitted to the Council under this scheme must include:
  - a clear and concise statement covering the subject of the petition which must relate to the functions, powers, or duties of the Council. It should also state what lawful action the petitioners wish the Council to take;
  - the name and address (in a legible format) and signature of any person supporting the petition; and
  - contact details, including name, address, telephone number (and where possible, an email address) of the petition organiser.

## PART 4 – PUBLIC SPEAKING PROCEDURE RULES

- 2.2 The petition organiser is the person the Council will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the Council's website.
- 2.3 If a petition does not follow the guidelines set out above, the Joint Chief Executive, in consultation with the lead councillor with responsibility for governance, may decide not to do anything further with it. In that case, we will write to the petition organiser to explain the reasons.

### 3. What types of petitions are excluded?

- 3.1 We will not take action on any petition which the Joint Chief Executive, in consultation with the lead councillor with responsibility for governance, considers to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.
- 3.2 This petition scheme does not apply to:
- any petition relating to a planning or licensing application, or
  - a statutory petition (for example requesting a referendum on having a directly elected mayor), or
  - a petition relating to a matter where there is already an existing recourse to a review or right of appeal, such as council tax banding and non-domestic rates, where other procedures apply.
- 3.3 In addition, the scheme specifically excludes any petition on the same or similar topic as one that the Council has received and dealt with in the previous six months. The Council will acknowledge receipt of such a petition within 10 working days and include details of its response to the previous petition on the topic. Where the Council is still considering a petition on the same or similar topic, the new petition will be amalgamated with the first received petition.
- 3.4 Details of petitions affecting particular wards that have been excluded will be sent to the relevant councillors representing those wards.

### 4. What will the Council do when it receives my petition?

- 4.1 An acknowledgement will be sent to the petition organiser within ten working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website, except in cases where this would be inappropriate. Where the subject matter of the petition affects particular wards, the councillors representing those wards will be notified of the receipt of the petition.
- 4.2 We will write to the petition organiser at each stage of the petition's consideration. If the petition needs further investigation, we will tell you the steps we plan to take. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

### 5. How will the Council respond to my petition?

- 5.1 Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

## PART 4 – PUBLIC SPEAKING PROCEDURE RULES

- taking the action requested in the petition
- considering the petition at a meeting of the Council or Executive
- holding an inquiry into the matter
- holding a public meeting
- holding a meeting with petitioners or the petition organiser
- undertaking research into the matter
- writing to the petition organiser setting out the Council's views about the request in the petition
- referring the petition to the Overview and Scrutiny Committee for consideration

5.2 The type of response the Council provides may be dependent on the number of signatories to the petition. The table below summarises the Council's approach:

Number of signatories	Response
fewer than 50	Response from relevant strategic director/executive head of service (treated as standard correspondence).
50 - 299	Response from relevant lead councillor.
At least 300	Referred to the Leader/ Executive for response.
At least 500	Referred for debate at a meeting of the full Council (see section 6).
At least 500	Senior officer(s) called to provide evidence at a meeting of the Overview and Scrutiny Committee (see section 7), where such action is requested in the petition.

- 5.3 If we can do what a petition asks for, the acknowledgement to the organiser may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to be referred to the Leader/Executive or to trigger a debate at a meeting of the full Council, or for a senior officer to give evidence at a meeting of the Overview and Scrutiny Committee, then the acknowledgment will confirm this and inform the organiser when and where the relevant meeting will take place.
- 5.4 Where the petition is referred to the relevant lead councillor for a response, the petition organiser will be invited to make a written statement in support of the petition.
- 5.5 Where the petition is referred to the Leader/Executive, the full Council or to the Overview and Scrutiny Committee, the petition organiser (or any person authorised by him/her) will, if they so wish, be given a period not exceeding five minutes to present the petition at the meeting and the petition will then be discussed by councillors. Councillors will also be afforded the opportunity to ask questions of the petition organiser. The petition organiser (or any person authorised by the petition organiser) will be granted a right of reply for a further period not exceeding five minutes at the end of the debate and before a final decision or vote is taken.
- 5.6 In presenting their petition, the petition organiser (or any person authorised by him/her) shall be permitted to use visual aids, subject to submission of such visual aids to the Democratic Services and Elections Manager by no later than 12 noon one working day before the meeting at which the petition is presented.
- 5.7 We will contact the petition organiser before the meeting to establish whether they wish to formally present the petition at the meeting in the manner described above.
- 5.8 In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

## 6. Full Council debates

- 6.1 If a petition contains 500 signatures or more, it will automatically be referred to the full Council for debate unless it is a petition asking for a senior council officer to give evidence at a meeting of the Council's Overview and Scrutiny Committee (see section 7 below).
- 6.2 The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible, and consideration will then take place at the following meeting.
- 6.3 The Council will decide how to respond to the petition at the meeting. They may decide to support the action the petition requests, or not. A motion suggesting a formal response to the petition shall be proposed and seconded at the meeting and dealt with under the normal rules of debate, provided that any such motion must respond explicitly to the request in the petition i.e. that part of the petition which asks the Council to take some form of action. Alternatively, the Council may refer the matter to the Leader/ Executive or the Overview and Scrutiny Committee for further consideration. The petition organiser will receive written confirmation of this decision.

## 7. Petitions asking senior officers to provide evidence

- 7.1 A petition may ask for a senior council officer to give evidence at a meeting of the Council's Overview and Scrutiny Committee about something for which the officer is responsible as part of their job, for example, it may ask a senior council officer to explain progress on an issue, or to explain the advice given to councillors to enable them to make a particular decision.
- 7.2 If the petition requests such action and contains at least 500 signatures, the relevant senior officer will give evidence at a public meeting of the Overview and Scrutiny Committee.
- 7.3 For the purpose of this scheme, *senior officer* is defined as one of the following:
- the Joint Chief Executive,
  - any strategic director, or
  - any executive head of service
- 7.4 Details of the names of these officers are set out in Part 7 of this Constitution. Petition organisers should be aware that the Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The committee may also decide to call the relevant lead councillor to attend the meeting.
- 7.5 Committee members will ask the questions at this meeting, but petition organisers will be able to suggest questions to the chairman of the committee by contacting the Democratic Services and Elections Manager up to seven working days before the meeting although the chairman will have discretion to accept any such questions received after this deadline.

## 8. E-petitions

- 8.1 The Council welcomes e-petitions which are created and submitted through our website [Submit your petition - Guildford Borough Council](#). E-petitions will follow the same guidelines as paper petitions set out above.

## PART 4 – PUBLIC SPEAKING PROCEDURE RULES

- 8.2 E-petition organisers will need to provide us with their name, postal address and email address. They will also need to decide how long they would like their e-petition to be open for signatures, up to a maximum of 12 months.
- 8.3 When an e-petition is created, it may take five working days before it is published online. This is because we have to check that the content of the e-petition is suitable before it is made available for signature.
- 8.4 If the Joint Chief Executive, in consultation with the lead councillor with responsibility for governance, feels we cannot publish the e-petition for some reason, we will contact the e-petition organiser within this time to explain. The e-petition organiser will be able to change and resubmit their e-petition if they wish. If they do not do this within ten working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.
- 8.5 When an e-petition has closed for signature, it will automatically be submitted to the Democratic Services team. In the same way as a paper petition, the e-petition organiser will receive an acknowledgement within ten working days.
- 8.6 A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on our website.

### **9. How do I 'sign' an e-petition?**

- 9.1 All the e-petitions currently available for signature may be viewed on the Council's website
- 9.2 Anyone who signs an e-petition will be asked to provide their name, postcode and a valid email address. When this information has been submitted an email will be sent to the email address provided. This email will include a link which the signatory must click on in order to confirm that the email address is valid. Once this step is complete the signatory's 'signature' will be added to the e-petition.

### **10. What happens to my petition or e-petition following a formal response by the Council?**

- 10.1 Following a period of 21 days after the Council has responded formally, a paper petition will be destroyed, and all e-signatories on an e-petition will be erased, unless during that period, the petition organiser requests a review under section 11 below.

### **11. What can I do if I feel my petition has not been dealt with properly?**

- 11.1 If a petition organiser feels that we have not dealt with their petition properly, they have the right to request that the steps that the Council has taken in response to the petition is reviewed by the Council's Overview and Scrutiny Committee. It is helpful to everyone and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.
- 11.2 The petition organiser must exercise this right within 21 days of receipt of the Council's formal response to the petition.

## PART 4 – PUBLIC SPEAKING PROCEDURE RULES

11.3 The Council will endeavour to consider the review at the next available meeting of the Overview and Scrutiny Committee although, on some occasions, this may not be possible and the review will then take place at the following meeting or at a special meeting. The petition organiser shall be invited to attend that meeting. The procedure for conducting the review at the meeting shall be as follows:

- (a) The petition organiser (or any person authorised by them) shall be invited to address the Committee for no more than five minutes in respect of their request for review.
- (b) Councillors to ask the petition organiser any questions relevant to the review arising from their statement to the Committee.
- (c) The Committee to review the steps taken by the Council in responding to the petition and to consider whether the Council has dealt with the petition adequately. Dependent on whether the formal response to the petition was given by:
  - A strategic director or executive head of service,
  - a lead councillor, or
  - full Council

this may include asking the relevant strategic director/executive head of service or relevant lead councillor to attend and answer questions from the Committee.

- (d) Prior to making a decision on the review, the petition organiser (or any person authorised by them) shall have a right of reply on the debate, for which they will be given five minutes.
- (e) The Committee to formally determine the review – deciding either that the Council has dealt with the petition adequately or that it has not. If the latter, the Committee must then decide one of the following options:
  - (i) to investigate the matter further;
  - (ii) to make recommendations to the Leader/Executive; or
  - (iii) to arrange for the matter to be considered at a meeting of full Council.

11.4 The question as to whether implementation of any decisions pertinent to a petition under review by overview and scrutiny should be deferred pending completion of the review process shall be dealt with by the Joint Chief Executive on a case-by-case basis including, where necessary, convening special meetings of the Overview and Scrutiny Committee and/or full Council for this purpose.

11.5 Once the Committee has completed its review the petition organiser will be informed of the results within five working days. The results of the review will also be published on our website. Following the review, if the petition was a paper petition, it will be destroyed and, if an e-petition, all e-signatories will be erased.

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## GUILDFORD BOROUGH COUNCIL

### ACCESS TO INFORMATION PROCEDURE RULES

#### Part A - General

1. **Scope**

These Procedure Rules allow the public rights of access to meetings and information to reflect the Council's commitment to its residents of being open and accountable. They apply to all meetings of the Council, Executive, committees, and sub-committees (together called meetings) unless otherwise specified in this Constitution or by legislation.
2. **Additional Rights to Information**

These Procedure Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law, nor do these Procedure Rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 2018.
3. **Rights to Attend Meetings**

Members of the public may attend all meetings subject only to the exceptions in these Procedure Rules.
4. **Notices of Meeting**

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at Guildford Borough Council Offices, Millmead House, Millmead, Guildford, Surrey, GU2 4BB (the Council offices) and on its website at [www.guildford.gov.uk](http://www.guildford.gov.uk).
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 on its website and at the designated office at least five clear working days before the meeting, except:

  - (a) those which contain exempt or confidential information, the meaning of which is explained later in these Procedure Rules; or
  - (b) those in relation to Licensing Sub-Committees where a meeting is called in accordance with:
    - (i) section 105(2)(a) (counter notice following police objection to temporary event notice) of the Licensing Act 2003; or
    - (ii) SI 2007 No. 2502 - Summary Review of Premises Licences.

If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

Where reports are prepared after the summons to the meeting has been sent out, the Joint Chief Executive shall make each such report available to the public as soon as the report is completed and sent to councillors.

Upon receipt of a reasonable request, the Council will make copies of agendas and reports available to the public in alternative formats.



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 on the agenda; and
- (c) if the Monitoring Officer 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.

The Council will make available to the public present at a meeting a reasonable number of copies of the agenda and of the reports for the meeting (except during any part of the meeting to which the public are excluded)

7. **Access to Minutes and other Information after the Meeting**

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all Council, Executive, committee and sub-committee meetings, 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**

8.1 **List of Background Papers**

The Joint Chief Executive, strategic director, or executive head of service in whose name any report is prepared will set out in the report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report 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 Procedure Rule 10 below)

8.2 **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 will be kept at and made available to the public at the Council Offices.

10. **Exclusion of Access by the Public to Meetings**

10.1 **Confidential Information – Requirement to Exclude Public**

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

10.2 **Exempt Information – Discretion to Exclude Public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Such a decision to exclude the public is to be made by resolution of the relevant decision-making body.

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

10.3 **Meaning of Confidential Information**

Confidential information means information given to the Council by a government department, service or agency on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or court order.

10.4 **Meaning of Exempt Information**

Exempt information means information falling within any of the categories (subject to any qualification) defined in Appendix I to these Procedure Rules.

11. **Exclusion of Access by the Public to Reports**

If the Council Solicitor and Monitoring Officer 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 Procedure 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.

**Part B – Executive Decision making**

12. **Application of Rules to the Executive**

Procedure Rules 13 to 28 apply to the Executive and its committees (if any). If the Executive 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. This requirement does not include meetings, whose sole purpose is for officers to brief members.

13. **Procedure before taking Key Decisions**

A key decision is as defined in Article 14 of this Constitution.

13.1 **Notice of Key Decision**

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

- (a) a notice (called here a "Notice of Key Decision") has been published in connection with the matter in question;
- (b) at least twenty-eight clear days have elapsed since the publication of the Notice of Key Decision (which may include Saturdays, Sundays and public holidays) and the date of the meeting at which the key decision is to be made; and
- (c) where the decision is to be taken at a meeting of the Executive or its committees (if any), notice of the meeting has been given in accordance with Procedure Rule 4 (notice of meetings).

### 13.2 Contents of Notice of Key Decision

The Notice of Key Decision will state that a key decision is to be taken by the Executive, a committee of the Executive, individual members of the Executive, officers, area committees or under joint arrangements in the course of the discharge of an executive function. It will describe the following particulars:

- (a) the matter in respect of which the decision is to be made;
- (b) 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 a list of its membership;
- (c) the date on which, or the period within which, the decision is to be made;
- (d) a list of the documents submitted to the decision maker for consideration in relation to the matter;
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (f) that other documents relevant to those matters may be submitted to the decision maker; and
- (g) the procedure for requesting details of those documents (if any) as they become available.

### 13.3 Publication of the Notice of Key Decision

The Notice of Key Decision will be made available for inspection by the public at the Council offices and on the website.

### 14. **The Forward Plan**

Although not required by law, the Council continues to publish a Forward Plan which sets out details of the various decisions that the Executive is likely to take over a subsequent period of twelve months in so far as they are known at the time of publication. Other significant decisions to be taken by full Council will be included for information. The Forward Plan incorporates the Notice of Key Decision referred to in Procedure Rule 13 and Notice of Intention to Hold Executive Meetings in Private referred to in Procedure Rule 21. The Forward Plan will be published on the Council's website and a copy will be available for inspection at the Council offices at least twenty-eight clear days before each meeting of the Executive.

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Exempt information need not be included in the Forward Plan and confidential information cannot be included.

### 15. **General Exception**

15.1 If a Notice of Key Decision has not been published in accordance with Procedure Rule 13, then subject to Procedure Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to publish a Notice of Key Decision;
- (b) the Democratic Services and Elections Manager has informed the chairman of the Overview and Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter on which the decision is to be made;
- (c) the Democratic Services and Elections Manager has made copies of that notice available to the public at the offices of the Council and on the Council's website; and
- (d) at least five clear working days have elapsed since the Democratic Services and Elections Manager complied with (b) and (c).

15.2 As soon as reasonably practicable after the Democratic Services and Elections Manager has complied with Procedure Rule 15.1, he must make available at the Council offices and publish on the Council's website the reasons why compliance with Procedure Rule 13 is impracticable.

### 16. **Special Urgency**

16.1 If by virtue of the date by which a key decision must be taken, Procedure Rule 15 (general exception) cannot be followed, then the key decision can only be taken if the decision maker (if an individual) or the chairman of the body making the decision, obtains the agreement of the chairman of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. If there is no chairman of the Overview and Scrutiny Committee, or if he or she is unable to act, then the agreement of the Mayor or in his/her absence the Deputy Mayor will suffice.

16.2 As soon as reasonably practicable after the decision maker has obtained agreement under paragraph 16.1 above, he shall make available at the Council offices and publish on the Council's website a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred.

### 17. **Report to Council**

17.1 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:

- (a) the subject of a Notice of Key Decision; or
- (b) the subject of the general exception procedure under Procedure Rule 15; or

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- (c) the subject of an agreement with the chairman of the Overview and Scrutiny Committee or the Mayor/Deputy Mayor under Procedure Rule 16;

the committee may require the Leader/Executive to submit a report to the Council within such reasonable time as the committee specifies. The report must include details of the decision and the reasons for the decision, the decision maker, and the reasons, if any, for the Leader/Executive believing that the decision was not a key decision. The power to require a report rests with the Overview and Scrutiny Committee, who shall require the Democratic Services and Elections Manager to issue such a report on behalf of that committee when so requested by the chairman or any five councillors. Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

### 17.2 Leader's/Executive's Report to Council

The Leader/Executive will present a report 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 Overview and Scrutiny Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision and, if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

### 17.3 Reports from the Leader on Special Urgency Decisions

In any event, the Leader will report to the next ordinary meeting of the Council on any executive decisions taken in the circumstances set out in Procedure Rule 16 (special urgency). The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

### 18. **Meetings of the Executive to be held in Public**

Meetings of the Executive and its committees (if any) will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be excluded for the part or parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

### 19. **Notice of Executive meetings**

Members of the Executive or its committees (if any) will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

### 20. **Officer attendance at Executive meetings**

The Joint Chief Executive as Head of Paid Service, Monitoring Officer, Chief Finance Officer, Strategic Directors, and their nominees, are entitled to attend any meeting of the Executive.

### 21. **Notice of Intention to hold Executive Meetings in Private**

- 21.1 Subject to this Procedure Rule, where the Monitoring Officer agrees that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during consideration of that item, either:

- (a) confidential information, as defined in Procedure Rule 10.3, would be disclosed to them in breach of the obligation of confidence, or

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(b) exempt information, as defined in Procedure Rule 10.4, would be disclosed to them,

the meeting shall be held in private, following the exclusion of the public.

21.2 At least twenty-eight clear days before a private meeting (which may include Saturdays, Sundays and public holidays), the decision-making body shall:-

(a) make available at the Council offices a notice of its intention to hold the meeting in private (a "Notice of Private Meeting"); such notice to include a statement of reasons for the meeting to be held in private, and

(b) publish that notice on the Council's website.

21.3 At least five clear days before a private meeting, the decision-making body shall:-

(a) make available at the Council offices a further notice of its intention to hold the meeting in private; and

(b) publish that notice on the Council's website.

This notice will be included in the agenda for the meeting.

21.4 A notice under Procedure Rule 21.3 shall include:-

(a) a statement of the reasons for the meeting to be held in private

(b) details of any representations received by the decision-making body about why the meeting should be open to the public; and

(c) a statement of its response to any such representations.

21.5 Where the date by which a meeting must be held makes compliance with this Procedure Rule impracticable, the meeting may only be held in private where:-

(a) the chairman of the Overview and Scrutiny Committee; or

(b) if there is no such person, or if the chairman of the Overview and Scrutiny Committee is unable to act, the Mayor; or

(c) where there is no chairman of either the Overview and Scrutiny Committee or in the absence of the Mayor, the Deputy Mayor,

has agreed that the meeting is urgent and cannot reasonably be deferred.

21.6 As soon as reasonably practicable after agreement to hold a private meeting has been obtained under Procedure Rule 21.5, the decision-making body shall:

(a) make available at the Council offices 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.

22. **Taking Executive Decisions by Individuals**

Decisions by the Leader or individual lead councillors

**22.1 Reports intended to be taken into account**

Where the Leader or an individual lead councillor receives a report which he or she intends to take into account in making any executive decision under the scheme of delegation to Lead Councillors referred to in the Appendix to Part 3 of this Constitution (Responsibilities of Leader and Lead Councillors), then he or she will not make the decision until at least five clear working days after receipt of that report.

**22.2 Provision of copies of Reports to all councillors**

On giving such a report to the Leader or an individual lead councillor, the Democratic Services and Elections Manager will give a copy of it to all councillors as soon as reasonably practicable and make it publicly available at the same time. Before the Leader or lead councillor takes an executive decision, he or she will take into account any written representations submitted by other councillors or from the public.

Decisions by officers

22.3 Officers contemplating a decision in connection with an executive function shall have careful regard to the following principles in deciding how this should be taken:

- (a) whether the proposed decision is closely (as opposed to remotely) connected with the discharge of a function which is, as a matter of law, the responsibility of the authority's executive;
- (b) whether the proposed executive decision is merely administrative in nature with only a remote connection with an executive function;
- (c) whether a proposed executive decision is so minor or routine in nature or is otherwise one which would reasonably be considered to be of no interest to a reasonable member of the public;
- (d) whether the proposed executive decision is sufficiently important and/or sensitive so that a reasonable member of the public would reasonably expect it to be taken by the Executive;
- (e) whether the proposed executive decision is one which affects only particular individuals as opposed to the public generally;

22.4 Taking into account the above principles, the Council has agreed that these Procedure Rules shall apply to:

- (a) key decisions taken by officers; and
- (b) any executive decision taken by an officer -
  - (i) under the scheme of delegation to officers referred to in Part 3 of this Constitution, or
  - (ii) which has been authorised specifically by the Leader/Executive

which requires prior consultation with the Leader, a lead councillor or a local ward member.

**23. Record of Executive Decisions**

Executive meetings

As soon as reasonably practicable after any meeting of the Executive or any of its committees (where applicable), whether held in public or private, the Democratic Services and Elections Manager, or if the Democratic Services and Elections Manager was not present, the person presiding at the meeting, shall produce a written statement of every executive decision taken at that meeting which shall include the following information:

- (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 by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted in respect of it.

Executive decisions taken by the Leader or individual lead councillors

As soon as reasonably practicable after an executive decision has been taken by the Leader or an individual lead councillor, the Democratic Services and Elections Manager shall prepare a record of the decision, which shall include the following information:

- (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 by the member when making the decision;
- (d) a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted in respect of it.

Executive decisions taken by officers

As soon as reasonably practicable after an executive decision has been taken by an officer, that officer shall prepare a record of the decision, which shall include the following information:

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



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- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) a record of any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted in respect of it.

The provisions of Procedure Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of executive decisions by individuals. This does not require the disclosure of exempt or confidential information.

### 24. **Inspection of documents following executive decisions**

- (a) Subject to Procedure Rule 28, after a meeting of a decision-making body at which an executive decision has been made, or after the Leader, an individual lead councillor or officer has made an executive decision, the Democratic Services and Elections Manager shall ensure that a copy of-
  - (i) any records prepared in accordance with Procedure Rules 22 and 23; and
  - (ii) any report considered at the meeting or, as the case may be, considered by the individual member or officer and relevant to a decision recorded in accordance with Procedure Rules 22 or 23 or, where only part of the report is relevant to such a decision, that part,

shall be available for inspection by members of the public, as soon as is reasonably practicable, at the Council offices and on the website.

- (b) Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection referred to in (a) above, those documents must be supplied for the benefit of the newspaper by the Council on payment by the newspaper to the Council of postage, copying or other necessary charge for transmission.

### 25. **Inspection of background papers**

Subject to Procedure Rule 28, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with Procedure Rules 5 or 24, at the same time-

- (a) a copy of a list compiled by the proper officer of the background paper to the report or part of the report, must be included in the report or, as the case may be, part of the report; and
- (b) at least one copy of each of the documents included in that list,

must be available for inspection by the public at the offices of the Council and on the website.

26. **Overview and Scrutiny Committee Access to Documents**

26.1 **Rights to Copies**

Subject to Procedure Rule 26.2 below, a member of the Overview and Scrutiny Committee will be entitled to a copy of any document which is in the possession or control of the Leader/Executive and which contains material relating to:

- (a) any business transacted at a meeting of the Executive;
- (b) any executive decision taken by the Leader or an individual lead councillor; or
- (c) any executive decision taken by an officer.

The documents must be provided as soon as reasonably practicable, but no later than ten clear days after the request is received.

26.2 **Limit on Rights**

A member of the Overview and Scrutiny Committee will not be entitled to a copy of any document or part of a document that:

- (a) is in draft form; or
- (b) contains exempt or confidential information unless that information is relevant to:
  - (i) an action or decision that that member is reviewing or scrutinising; or
  - (ii) any review contained in the Overview and Scrutiny Committee's work programme.

Where the Leader/Executive determines that a member of the Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in (a) or (b) above, they must provide the Overview and Scrutiny Committee with a written statement setting out their reasons for that decision.

27. **Additional Rights of Access to Documents for Councillors**

27.1 Subject to Procedure Rules 27.5 and 27.6, any document which is in the possession or under the control of the Leader/Executive which contains material relating to any business to be transacted at a public meeting of the Executive shall be made available for inspection by any councillor.

27.2 Any document which is required by Procedure Rule 27.1 to be available for inspection by any councillor must be available for such inspection for at least five clear working days before the meeting except that:

- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under Procedure Rule 27.1 in relation to

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that item, must be available for inspection when the item is added to the agenda.

27.3 Subject to Procedure Rules 27.5 and 27.6, any document which is in the possession or under the control of the Leader/Executive and contains material relating to:

- (a) any business transacted at a private meeting of the Executive;
- (b) any decision made by the Leader or individual lead councillor in accordance with executive arrangements; or
- (c) any decision made by an officer in accordance with executive arrangements,

must be available for inspection by any councillor when the meeting concludes or in relation to (b) and (c) above, immediately after the decision has been made.

27.4 Any document which is required by Procedure Rule 27.3 to be available for inspection by any councillor must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

27.5 Procedure Rules 27.1 and 27.3 do not require a document to be available for inspection if it appears to the Monitoring Officer that it discloses exempt information.

27.6 Notwithstanding Procedure Rule 27.5, Procedure Rules 27.1 and 27.3 do require the document to be available for inspection if the information is information of a description for the time being falling within:

- (a) paragraph 3 of Appendix I (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or
- (b) paragraph 6 of Appendix I.

27.7 Where it appears to the Monitoring Officer that compliance with Procedure Rules 27.1 or 27.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant, that paragraph will not apply to that document or part.

27.8 The rights conferred by Procedure Rules 27.1 and 27.3 are in addition to any other rights that a councillor may have.

### 28. **Confidential Information and Exempt Information**

28.1 Nothing in these Procedure Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

28.2 Nothing in these Procedure Rules:

- (a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the

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opinion of the Monitoring Officer, that document or part of a document contains or may contain confidential information; or

- (b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information.

28.3 Where the Leader, a lead councillor or an officer makes an executive decision in accordance with executive arrangements, nothing in these Procedure Rules:

- (a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or
- (b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the member or officer making the decision, give rise to the disclosure of exempt information.

### Part C – Other (Non-Executive) Decisions taken by officers

#### 29. Recording of Decisions

29.1 The decision-making officer shall produce a written record of any decision which falls within Procedure Rule 29.2.

29.2 A decision falls within this Procedure Rule if it would otherwise have been taken by the Council, or a committee, sub-committee or a joint committee in which the Council participates, but it has been delegated to an officer of the Council either:

- (a) under a specific express authorisation; or
- (b) under a general authorisation to officers to take such decisions and, the effect of the decision is to:
  - (i) grant a permission or licence;
  - (ii) affect the rights of an individual; or
  - (iii) award a contract or incur expenditure which, in either case, materially affects the Council's financial position\*.

(Note: the Council has decided that the financial threshold at or above which, any contract awarded or expenditure incurred is deemed to materially affect its financial position is the same financial threshold referred to in the definition of a key decision, i.e. £200,000).

29.3 The written record shall be produced as soon as reasonably practicable after the decision-making officer has made the decision and shall contain the following information:

- (a) the date the decision was taken;
- (b) a record of the decision taken along with reasons for the decision;

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- (c) details of alternative options, if any, considered and rejected; and
- (d) the names of any councillor who has declared a conflict of interest in relation to the decision.

29.4 The duty imposed by Procedure Rule 29.1 is satisfied where, in respect of a decision, a written record containing the information referred to in subparagraphs (a) and (b) of Procedure Rule 29.3 is already required to be produced in accordance with any other statutory requirement.

### 30. **Decisions and background papers to be made available to the public**

30.1 The written record, together with any background papers, shall as soon as reasonably practicable after the record is made, be made available for inspection by members of the public:

- (a) at all reasonable hours, at the Council offices;
- (b) on the website; and,
- (c) by such other means that the Council considers appropriate.

30.2 On request and on receipt of payment of postage, copying or other necessary charge for transmission, the Council shall provide to the person who has made the request and paid the appropriate charges:

- (a) a copy of the written record;
- (b) a copy of any background papers.

30.3 The written record shall be retained by the Council and made available for inspection by the public for a period of six years beginning with the date on which the decision, to which the record relates, was made.

30.4 Any background papers shall be retained by the Council and made available for inspection by the public for a period of four years beginning with the date on which the decision, to which the background papers relate, was made.

30.5 The provisions relating to confidential and exempt information referred to in Procedure Rule 28.1 and 28.2 apply to this Part of these Procedure Rules.

**EXEMPT INFORMATION**

**Categories of Exempt Information** (see also Qualifications below)

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
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.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
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.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

**Qualifications**

1. Information falling within Category 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:
  - (a) the Companies Acts (as defined in section 2 of the Companies Act 2006);
  - (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.
2. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

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3. Information which:
- (a) falls within any of Categories 1 to 7 above; and
  - (b) is not prevented from being exempt by virtue of Qualifications 1 or 2 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.

### NOTE: The Public Interest Test

The Public Interest Test in the Freedom of Information Act 2000 is specifically defined.

The starting point is that there is a general public interest in release and the Council has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations.

- There is a distinction between the public interest and what merely interests the public.
- Does it further the understanding of and participation in the public debate of issues of the day?
- Does it promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?
- Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?
- Does it bring to light information affecting public health and public safety?

## GUILDFORD BOROUGH COUNCIL

### EXECUTIVE PROCEDURE RULES

#### 1. How does the Executive operate?

##### 1.1 Who may make executive decisions?

The Leader has responsibility for the discharge of all executive functions and may delegate any or all of these functions to:

- (i) the Executive as a whole;
- (ii) a committee of the Executive;
- (iii) an individual member of the Executive;
- (iv) an officer;
- (v) an area committee;
- (vi) joint arrangements; or
- (vii) another local authority.

##### 1.2 Delegation of executive functions

- (a) Where the Executive is responsible for an executive function, it may delegate further to a committee of the Executive, lead councillor, area committee, joint arrangements or officer.
- (b) Unless the Leader/Executive directs otherwise, a committee of the Executive or lead councillor may delegate further to an officer.
- (c) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

##### 1.3 The Leader's scheme of delegation and Executive functions

- (a) The Leader may amend the scheme of delegation relating to executive functions at any time. In doing so the Leader will give written notice to the Democratic Services and Elections Manager 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 or committee. The Democratic Services and Elections Manager will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (b) Where the Leader seeks to withdraw delegation from a committee of the Executive, notice will be deemed to be served on that committee when he has served it on its chairman.

##### 1.4 Conflicts of interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Councillors' Code of Conduct in Part 5 of this Constitution.



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- (b) If any member of the Executive has a conflict of interest this should be dealt with as set out in the Councillors' Code of Conduct in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the Executive, an individual lead councillor 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 Councillors' Code of Conduct in Part 5 of this Constitution.

### **1.5 Executive meetings**

The Executive will meet at such times as the Leader shall determine. The Executive shall meet at the Council's main offices or another location to be agreed by the Democratic Services and Elections Manager, in consultation with the Leader of the Council.

### **1.6 Quorum**

The quorum for a meeting of the Executive shall be three members of the Executive.

### **1.7 How are decisions to be taken by the Executive?**

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the Executive, the Procedure Rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.
- (c) All Key (and other significant) decisions should be considered by the relevant Executive Advisory Board prior to the formal consideration of all such decisions by the Executive; and the Executive shall take into account any recommendations made by the Board.

## **2 How are the Executive meetings conducted?**

### **2.1 Who presides?**

The Leader, or in his or her absence the Deputy Leader, will preside. In the absence of both the Leader and Deputy Leader, then a member of the Executive appointed to do so by those present shall preside.

### **2.2 Who may attend?**

Meetings of the Executive will be held in accordance with the Access to Information Rules in Part 4 of this Constitution.

### **2.3 What business?**

At each meeting of the Executive, the following business will be conducted:

- (i) disclosure of interests (if any);
- (ii) consideration of the minutes of the previous meeting of the Executive

## PART 4 – EXECUTIVE PROCEDURE RULES

- (iii) matters referred to the Executive by the Overview and Scrutiny Committee or by the Council for reconsideration by the Executive 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 and recommendations from the Overview and Scrutiny Committee;
- (v) matters set out in the agenda for the meeting, which shall indicate which are key decisions;
- (vi) any matters, reports and recommendations referred to the Executive by the Executive Advisory Boards.

### 2.4 Consultation

All reports to the Leader/Executive on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation 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.

## GUILDFORD BOROUGH COUNCIL

### OVERVIEW AND SCRUTINY PROCEDURE RULES

**1. Arrangements for the Overview & Scrutiny Committee**

The Council will have one overview and scrutiny committee (OSC) as described in Article 8. The OSC will comprise 12 councillors and the Council will appoint councillors to it on an annual basis. The OSC may appoint formal sub-committees and informal task and finish groups.

**2. Who may sit on the OSCs?**

(a) All councillors, except members of the Executive, may be members of the OSC. However, no councillor may be involved in scrutinising a decision in which he or she has been directly involved (unless that involvement was only as a member of an Executive Advisory Board).

(b) There shall be no limit upon the number of substitute members

**3. Co-optees**

The OSC, or any of its sub-committees or task and finish groups, shall be entitled to appoint non-voting co-optees. Co-optees shall normally be drawn from groups, organisations, or service users with an interest in services within the OSC's remit. Co-optees may be appointed as standing co-optees, or special interest co-optees appointed to assist with scrutiny of a particular matter.

**4. Meetings of the OSC**

There shall normally be at least seven ordinary meetings of the OSC in each year. In addition, special meetings (and meetings to consider call-ins pursuant to paragraph 17 below) may be called if appropriate. An OSC meeting may be called by the chairman, by any five members of the OSC, or by the Joint Chief Executive if he or she considers it necessary or appropriate.

**5. Quorum**

The quorum for the OSC shall be four voting members of the Committee.

**6. Who chairs OSC meetings?**

(a) The OSC chairman shall be drawn from among those councillors serving on the OSC who is not from the majority political group or a chairman of any other committee. The chairman shall be elected in accordance with the procedure set in Council Procedure Rule 29. The chairman of each overview and scrutiny sub-committee or task and finish group will be drawn from amongst the councillors serving on the sub-committee or task and finish group concerned.

(b) A vice-chairman of the OSC, who shall not be from the same political group as the chairman, shall also be elected in accordance with the procedure set in Council Procedure Rule 29.

## PART 4 - OVERVIEW AND SCRUTINY PROCEDURE RULES

### 7. Work programme

The OSC will be responsible for setting its own work programme in accordance with the following procedure:

The chairmen and vice-chairmen of the OSC and the Executive Advisory Boards and relevant officers shall normally meet at least bi-monthly to exchange, discuss and agree proposed rolling 12-18 month work programmes for submission periodically to the OSC (in respect of the OSC work programme) and to the Executive Advisory Boards (in respect of the EAB work programmes) for approval. The proposed work programme for the OSC will be determined with reference to the P.A.P.E.R. topic selection tool, attached as Appendix 2 to these procedure rules.

The chairman and vice-chairman of the OSC will ensure that all councillors are able to submit requests for alterations to the work programme for consideration at each of these work programme meetings.

### 8 Task and finish groups

The work programme meetings described in Procedure Rule 7 above will consider and propose the establishment, membership, terms of reference, and reporting timescale of task and finish groups to undertake specific areas of work. Such proposals shall be submitted to the OSC for approval. The number of task and finish groups must be commensurate with available resources.

Task and finish groups will be expected to operate and report their findings in accordance with the flowchart attached as Appendix 4 to these rules.

Any non-executive councillor may be appointed to serve on task and finish groups and membership will be open to non-councillors, including representatives of external bodies. Political balance requirements will not apply to task and finish groups.

### 9. Entitlement to place items, including a Councillor Call for Action, on an Agenda

In normal circumstances, requests to include an item on the OSC agenda will be forwarded to the chairman and vice-chairman of the OSC for consideration in accordance with the procedure set out in Procedure Rule 7 above.

However, any member of the OSC or its sub-committees shall be entitled to give written notice to the Scrutiny Officer that he or she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. Any such notification shall be accompanied by:

- (a) reasons for the proposed item, including justification for the item not being progressed through Procedure Rule 7; and
- (b) the outcome that the councillor would wish to see in response to the OSC's or sub-committee's consideration of the matter.

## **PART 4 - OVERVIEW AND SCRUTINY PROCEDURE RULES**

On receipt of such a request, the Scrutiny Officer will ensure that it is included on the next available agenda. The OSC shall consider the request with reference to the P.A.P.E.R. topic selection tool attached as Appendix 2 to these procedure rules.

Notwithstanding the above provisions, any councillor may refer a councillor call for action (CCfA) to the OSC for consideration in accordance with the protocol attached as Appendix 1 to these procedure rules.

The OSC shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Leader/Executive to review particular areas of Council activity. Where the OSC does so, it shall report its findings and any recommendations back to the Leader/Executive and/or the Council.

### **10. Policy review and development**

- (a) The role of the OSC in relation to the development of the Council's budget and policy framework is detailed within the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution.
- (b) In relation to the development of the Council's approach to other matters not forming part of its budget and policy framework, the OSC or its sub-committees may make proposals to the Leader/Executive for developments in so far as they relate to matters within their terms of reference.
- (c) The OSC may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist it in this process. The OSC may go on site visits, conduct public surveys, hold public meetings, commission research, and do all other things that it reasonably considers necessary to inform its deliberations. The OSC may ask witnesses to attend to address a meeting on any matter under consideration and may pay to any advisers, assessors, and witnesses a reasonable fee and expenses for doing so.

### **11. Scrutiny of crime and disorder matters**

The scrutiny of crime and disorder matters shall be undertaken in accordance with the protocol set out in Appendix 3 to these procedure rules.

### **12. Reports from the OSC**

- (a) Once the OSC has formed proposals, it will submit a formal report to the Leader/Executive, Council, and / or other organisations as appropriate.
- (b) If the OSC cannot agree a single final report to the Council or Leader/Executive as appropriate, then one minority report may be prepared and submitted for consideration with the majority report.
- (c) The OSC may refer its formal recommendations and conclusions for consideration at Full Council, with any Leader/Executive response required to be reported to the next subsequent Full Council meeting within two months.

## PART 4 - OVERVIEW AND SCRUTINY PROCEDURE RULES

### 13. Rights of OSC members to documents

- (a) In addition to their rights as councillors, members of the OSC 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 Leader/ Executive and the OSC as appropriate.

### 14. Councillors and officers giving account

- (a) The OSC may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation in fulfilling the scrutiny role, the OSC may require the Leader, any lead councillor, the Head of Paid Service, Joint Strategic Directors, and executive heads of service to attend before them to answer questions. In addition, relevant councillors can be required to answer questions relating to functions exercised under section 236 of the Local Government and Public Involvement in Health Act 2007. It is the duty of those persons to attend if so required.
- (b) Where any councillor or officer is required to attend an OSC meeting, the Scrutiny Officer shall inform the councillor or officer in writing normally giving at least ten working days' notice. The notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the OSC. Where the account to be given to the OSC will require the production of a report, then the councillor or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the councillor or officer is unable to attend on the required date, the OSC shall in consultation with the councillor or officer arrange an alternative date for attendance.

### 15. Attendance by others

The OSC may invite people other than those people referred to in Procedure Rule 15 above to address them, discuss issues of local concern and/or answer questions.

### 16. Call-in

- (a) When a decision is made by the Leader/Executive or an individual lead councillor or a key decision is made by an officer with delegated authority from the Leader/Executive, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally by 5.00 pm on the day after the meeting. All councillors will be sent copies of the records of all such decisions within the same timescale by the Democratic Services and Elections Manager.
- (b) That notice will bear the date on which it is published and, subject to the urgency provisions in (h) below, will specify that the decision will come into force, and may then be implemented:

## PART 4 - OVERVIEW AND SCRUTINY PROCEDURE RULES

- on the expiry of five working days after the day of the meeting in the case of decisions taken by the Executive collectively; or
- on the expiry of five working days after the day of publication of the decision in the case of decisions taken by the Leader, individual lead councillors or key decisions taken by an officer with delegated authority from the Leader/ Executive

unless it is called-in.

- (c) During the call-in period referred to in (b) above, the chairman of the OSC or any five members of the Council may request in writing to the Democratic Services and Elections Manager that a decision is called-in for consideration by the OSC. The reasoning for calling-in a decision shall accompany any such request and must meet one of the following criteria:
- (i) that there was insufficient, misleading, or inaccurate information available to the decision-maker;
  - (ii) that all the relevant facts had not been taken into account and/or properly assessed;
  - (iii) that the decision is contrary to the budget and policy framework and is not covered by urgency provisions; or
  - (iv) that the decision is not in accordance with the decision-making principles set out in the Constitution.
- (d) On receipt of a call-in request, the Monitoring Officer, in consultation with the chairman of the OSC, will decide whether it is valid and will notify the councillors concerned accordingly.
- (e) In the case of a valid call-in, the decision shall be referred to a special Call-in Meeting of the OSC, which shall be held within 21 days of the decision on validity referred to in sub-paragraph (d) above.
- (f) The OSC may review the decision itself or refer the matter to the Council for review. If the OSC or Council, as the case may be, endorses the proposed decision, it comes into immediate force and effect. If the OSC or the Council do not support the proposed decision, the matter shall be referred back to the next appropriate meeting of the Leader/Executive or to the individual decision-taker for decision with such comment and advice as the OSC or the Council deems appropriate.
- (g) Once a decision has been referred back to the Leader/Executive or individual decision-taker by the OSC or the Council on the basis described above, it shall not be subject to further call-in. The decision shall then be final unless it is contrary to the policy framework or contrary to or not wholly consistent with the budget.
- (h) Any matter designated by the Joint Chief Executive to be urgent shall not, if the Leader/Executive or individual decision-taker and the chairman of the OSC agree, be subject to the call-in procedure, but shall be determined by the

## PART 4 - OVERVIEW AND SCRUTINY PROCEDURE RULES

Leader/ Executive, lead councillor or officer immediately. 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.

- (i) The operation of the provisions relating to call-in and urgency shall be monitored annually and a report submitted to the Council with proposals for review if necessary.

### 17. The party whip

The “party whip” is defined as:

"Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee or the application or threat to apply any sanction by the group in respect of that councillor should he or she speak or vote in any particular manner."

The Council considers whipping as incompatible with overview and scrutiny. Therefore, when considering any matter in respect of which a member of the OSC is subject to a party whip, the councillor must declare the existence of the whip and the nature of it before the commencement of the committee’s deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

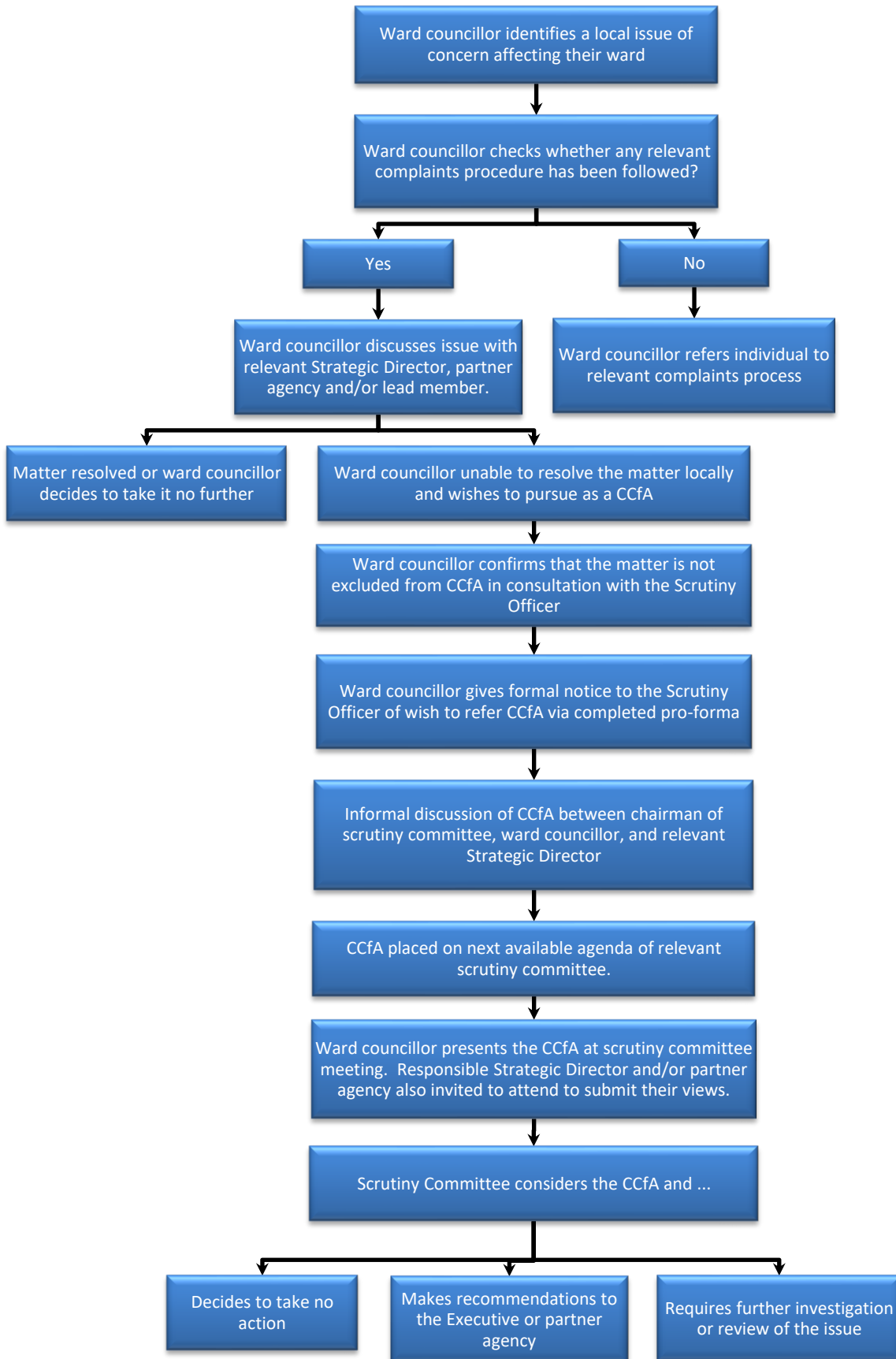
### 18. Procedure at OSC meetings

- (a) The OSC shall consider the following business:
  - (i) disclosures of interest, including whipping declarations;
  - (ii) consideration of the minutes of the last meeting;
  - (iii) consideration of any matter referred to the committee through the “call-in” procedure (in accordance with procedure rule 17 (e) above);
  - (iv) responses of the Leader/Executive to reports of the OSC; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the OSC conducts investigations (for example, with a view to policy development), the OSC may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all members of the OSC be given the opportunity to ask questions of attendees and to contribute and speak;
  - (ii) that those assisting the OSC by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the OSC shall prepare a report including recommendations for submission to the Leader/Executive and Council as appropriate and shall make these public.



PART 4 – OVERVIEW AND SCRUTINY PROCEDURE RULES (APPENDIX 1)

PROTOCOL ON COUNCILLOR CALL FOR ACTION (CCfA)



## Overview and Scrutiny Committee

### **P.A.P.E.R.** topic selection tool

**P**ublic interest: concerns of local people should influence the issues chosen

**A**bility to change: priority should be given to issues that the Committee can realistically influence

**P**erformance: priority should be given to areas in which the Council and Partners are not performing well

**E**xtent: priority should be given to issues that are relevant to all or a large part of the Borough

**R**eplication: work programme must take account of what else is happening to avoid duplication or wasted effort

## PROTOCOL FOR THE SCRUTINY OF CRIME AND DISORDER MATTERS

### 1. Crime and Disorder Committee

- 1.1 The Overview and Scrutiny Committee is the Council's designated crime and disorder committee.

### 2. Role of Committee

- 2.1 The Committee shall:

- (a) consider relevant councillor calls-for-action;
- (b) consider actions undertaken by partners on the crime and disorder reduction partnership;
- (c) make reports or recommendations to the council and partners with regard to those functions; and
- (d) include in its work programme a list of issues which it needs to cover during the year, which should be agreed in consultation with relevant partners on the partnership and reflect local community need.

### 3. Co-option

- 3.1 The Committee may co-opt an employee, officer or member of a responsible authority or of a co-operating body of the Safer Guildford Partnership to serve on the Committee. Any such person shall not be a member of the Council's Executive. The Committee will decide whether such a co-opted member shall have the right to vote and whether their membership shall be limited to certain issues only.

### 4. Involvement of the Police and Crime Commissioner for Surrey

- 4.1 The Police and Crime Commissioner for Surrey will be invited to attend the committee as an expert witness when crime and disorder matters are to be considered.
- 4.2 The Police and Crime Commissioner for Surrey will also be given an opportunity to be involved in any task and finish reviews involving the police.

### 5. Frequency of Meetings

- 5.1 The Committee shall meet to consider crime and disorder matters as it considers appropriate, but not less than once in every 12 month period.

### 6. Information Provision

- 6.1 In response to written requests for information by the Committee, the Safer Guildford Partnership and/or individual partners will provide such information no later than the date indicated in the request. If some or all of the information cannot reasonably be provided by such date, then that information must be provided as soon as is reasonably possible.
- 6.2 The information provided should be depersonalised unless the identification of an individual is necessary or appropriate in order to enable the Committee to properly exercise its powers. This information should not include anything that would be likely to prejudice legal proceedings or current or future operations of partners, whether acting together or individually.

## PART 4 – OVERVIEW AND SCRUTINY PROCEDURE RULES (APPENDIX 3)

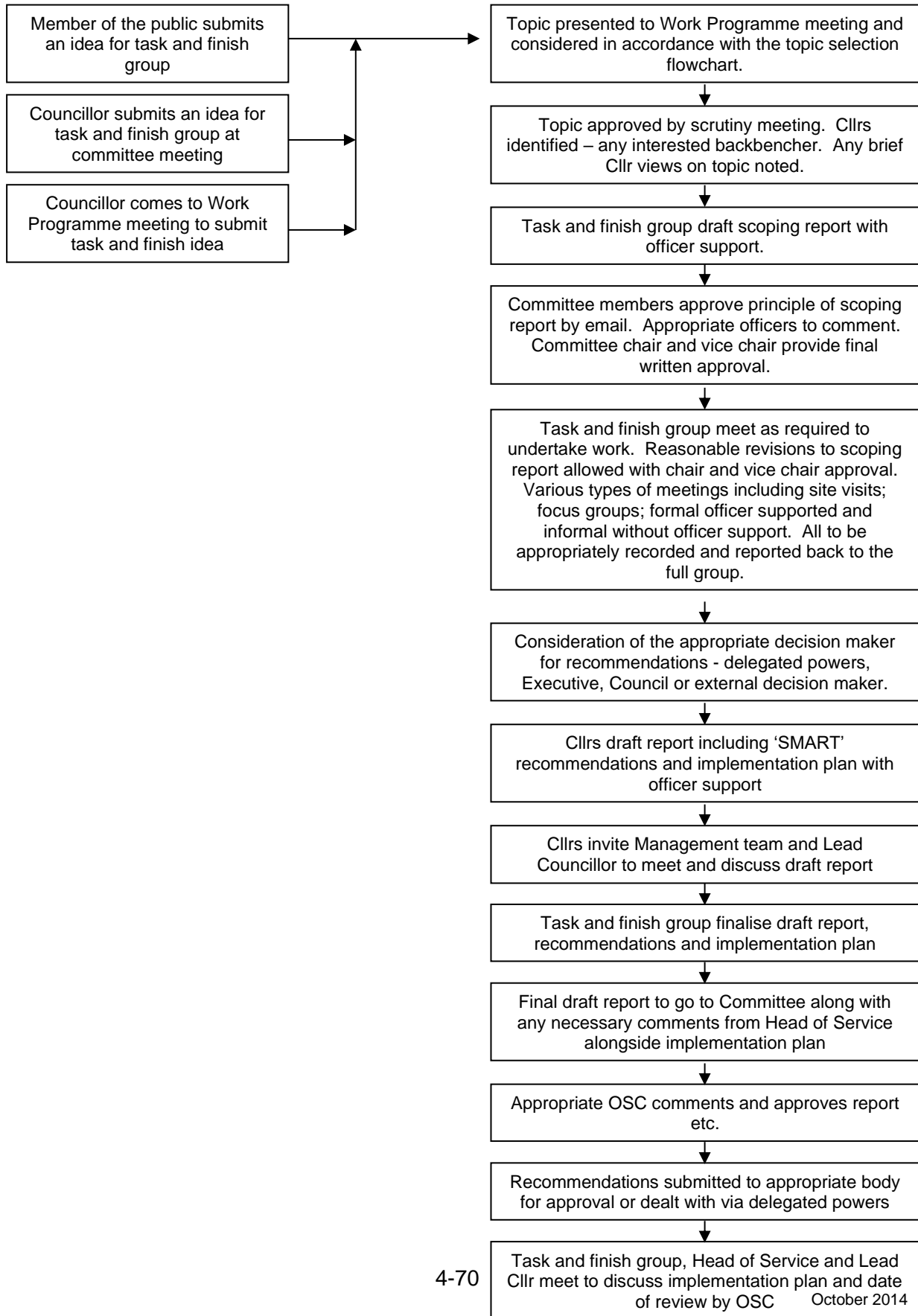
### **7. Attendance at Meetings**

- 7.1 The Committee may require the attendance of senior representatives of partners at meetings. Reasonable notice will be given of such requests.

### **8. Making and Responding to Recommendations**

- 8.1 Reports or recommendations which have an impact on community safety issues will be sent to relevant partners.
- 8.2 The relevant partner (or partners) will submit a response, in writing, within a period of 28 days from the date the report or recommendations are submitted (or if this is not possible as soon as reasonably possible thereafter).

## TASK AND FINISH GROUP FLOWCHART



## GUILDFORD BOROUGH COUNCIL

### BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

#### 1. The framework for executive decisions

References in these procedure rules to the Policy Framework are to the plans and strategies required by law to be adopted by the Council and set out in Article 4.

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget and policy framework is in place, it will be the responsibility of the Leader/Executive to implement it. The Executive will also be responsible for adopting all other policies.

The Executive Advisory Boards will assist and advise the Executive (including doing so at an early stage) as regards budget preparation and in the formulation, development and delivery of the Policy Framework and of policies that will help to deliver Corporate Plan Priorities

#### 2. Process for developing the framework

The process by which the budget and policy framework shall be developed is as follows:

- (a) The proposals will be publicised by including in the forward plan 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 the arrangements for consultation after publication of those initial proposals. The Overview and Scrutiny Committee and the Executive Advisory Boards will also be notified and may suggest additional or alternative arrangements for consultation.
- (b) At the end of the consultation period, the Leader/Executive will draw up firm proposals having regard to the responses to that consultation. If the Overview and Scrutiny Committee or the Executive Advisory Boards wish to respond to the Leader/Executive in that consultation process, then they may do so. As the Overview and Scrutiny Committee and the Executive Advisory Boards have responsibility for fixing their own work programmes, it is open to each Committee/Board to investigate, research or report in detail with policy recommendations before the end of the consultation period having particular regard not to duplicate any consultation carried out by the Executive. The Overview and Scrutiny Committee and Executive Advisory Boards shall report to the Executive on the outcome of their deliberations. The Leader/ Executive will take any response from consultees (including the Overview and Scrutiny Committee/Executive Advisory Boards) into account in drawing up firm proposals for submission to the Council. The Leader's/Executive's report to the Council will reflect the comments made by consultees and the Leader's/Executive's response.
- (c) Once the Leader/Executive has approved the firm proposals, the Democratic Services and Elections Manager will refer them at the earliest opportunity to the Council for decision.

3. **Procedure for conflict resolution: plans and strategies**

This procedure applies in relation to those plans and strategies forming the policy framework of the Council as set out in Article 4 of Part 2 of this Constitution and to any plan or strategy for the control of the Council's borrowing and capital expenditure.

(a) Where the Leader/Executive has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph (b) below.

(b) Before the Council-

(i) amends the draft plan or strategy;

(ii) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or

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

it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him or her instructions requiring the Leader/Executive to reconsider, in the light of those objections, the draft plan or strategy submitted to them/it.

(c) Where the Council gives instructions in accordance with paragraph (b) above, it must specify a period of at least five working days beginning on the day after the date on which the Leader received the instructions within which the Leader may:

(i) submit a revision of the draft plan or strategy, as amended by the Leader/Executive (the "revised draft plan or strategy"), with the Leader's/Executive's reasons for any amendments to the Council for consideration; or

(ii) inform the Council of any disagreement that the Leader/Executive has with any of the Council's objections, together with its reasons.

(d) When the period specified by the Council, referred to in paragraph (c) above has expired, the Council must, when:

(i) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;

(ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or

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

take into account any amendments, representations or observations made by the Leader/Executive within the period specified, together with the reasons.

4. **Procedure for conflict resolution: revenue budget**

This procedure applies to estimates and calculations relating to the revenue budget and council tax. Paragraphs (a) to (e) below do not apply to estimates and calculations submitted by the Leader/Executive to the Council where the estimates and calculations were drawn up by the Leader/Executive on or after 8 February in any financial year.

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

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

- (b) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (a)(i) above, or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Leader's/Executive's estimates or amounts and must give to him or her instructions requiring the Leader/Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- (c) Where the Council gives instructions in accordance with paragraph (b) above, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions within which the Leader may:
- (i) submit a revision of the estimates or amounts as amended by the Leader/Executive ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Leader's/Executive's reasons for any amendments made to the estimates or amounts, to the Council for consideration; or
  - (ii) inform the Council of any disagreement that the Leader/Executive has with any of the Council's objections, together with its reasons.
- (d) When the period specified by the Council, referred to in paragraph (c) above has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph (a)(i) above, or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:



## PART 4 – BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

- (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (ii) the Leader's/Executive's reasons for those amendments;
- (iii) any disagreements that the Leader/Executive has with any of the Council's objections, and
- (iv) the Leader's/Executive's reasons for that disagreement,

which the Leader submitted to the Council, or informed the Council of, within the period specified.

- (e) Paragraphs (a) to (d) above shall not apply in relation to substitute calculations which the Council is required to make in accordance with Section 52ZF of the Local Government Finance Act 1992.
- (f) Where estimates and calculations are drawn up by the Leader/Executive on or after 8 February in any financial year and are submitted to the Council for their consideration, the procedure in paragraphs (a) to (e) will not apply.
- (g) 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 Leader/Executive in accordance with paragraphs 7 and 8 of these Procedure Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

### 5. Decisions outside the budget or policy framework

- (a) Subject to the provisions of Procedure Rule 7 (Virement), the Leader/Executive, individual lead councillors and any officers discharging executive functions may only take decisions which are in line with the budget and policy framework. If the Leader/Executive, individual lead councillor or any officer 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 Procedure Rule 6 below.
- (b) If the Leader/Executive or any individual lead councillor or officer discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance 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 Procedure Rule 6 (Urgent Decisions Outside the Budget and Policy Framework) shall apply.

### 6. Urgent decisions outside the budget or policy framework

- (a) The Leader/Executive, individual lead councillors or officers discharging executive 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

## PART 4 – BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

by full Council if the decision is a matter of urgency. However, the decision may only be taken:

- (i) if it is not practical to convene a quorate meeting of the full Council; and
- (ii) if the chairman of the Overview and Scrutiny 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 the chairman 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 chairman of the Overview and Scrutiny Committee, the consent of the Mayor, and in the absence of both, the Deputy Mayor, 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.

### 7. **Virement**

Steps taken by the Executive, individual lead councillors or officers discharging executive functions shall not exceed those budgets allocated to each budget head. In the event that virement across budget heads or budgets becomes necessary or desirable, it shall be carried out in accordance with the Financial Procedure Rules in Part 4 of this Constitution.

### 8. **In-year changes to policy framework**

The responsibility for agreeing the budget and policy framework lies with the Council and decisions by the Leader/Executive, individual lead councillors or officers discharging executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

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

### 9. **Call-in of decisions outside the budget or policy framework**

- (a) Where the Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.

#### PART 4 – BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

- (b) In respect of functions which are the responsibility of the Leader/Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Leader/Executive with a copy to all councillors. Regardless of whether the decision is delegated or not, the Leader/Executive must meet to decide what action to take in respect of the Monitoring Officer's or Chief Finance Officer's report and to prepare a report to the Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made or has been made but not yet implemented and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to the 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. Following a request by the Overview and Scrutiny Committee, the matter will be referred to the next ordinary meeting of the Council. At the meeting, it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
- (i) endorse a decision or proposal of the executive decision-taker as falling within the existing budget and policy framework. In this case, no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - (ii) amend the Council's Financial Procedure Rules, budget or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive 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 Leader/Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Finance Officer.

## GUILDFORD BOROUGH COUNCIL

### OFFICER EMPLOYMENT PROCEDURE RULES

#### 1.0 INTRODUCTION

#### 1.1 Definitions

In these Rules:

- 1.1.1 'The 2001 Regulations' means the Local Authorities (Standing Orders) (England) Regulations 2001; 'The 2015 Regulations' means the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 1.1.2 'Appointor' means, in relation to the appointment of a person as an Officer of the Authority, the Authorities or, where a Joint Committee, Committee, Sub-Committee or Officer is discharging the function of appointment on behalf of the Authorities, that Joint Committee, Committee, Sub-Committee or Officer, as the case may be.
- 1.1.3 'Disciplinary Action' in relation to an Officer of the Council means any action occasioned by alleged misconduct which, if proven, would, according to the Council's usual practice, be recorded on the member of staff's personal file. This includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Authority has undertaken to renew such a contract.
- 1.1.4 'Dismissor' means, in relation to the dismissal of an Officer of the Authority, the Authorities or, where a Joint Committee, Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the Authorities, that Joint Committee, Committee, Sub-Committee or other Officer, as the case may be.
- 1.1.5 The 'Joint Management Team' means the group of Officers consisting of the Joint Chief Executive, the Joint Strategic Directors, and the Joint Executive Heads of Service.
- 1.1.6 'Head of Paid Service' means the Officer designated under *Section 4(1) of the Local Government and Housing Act 1989* – the Council's Joint Chief Executive has been designated the Head of Paid Service.
- 1.1.7 'Chief Finance Officer' means the Officer having responsibility, for the purposes of *Section 151 of the Local Government Act 1972*, for the administration of the Council's financial affairs – the Council's Joint Executive Head of Finance has been designated the Chief Finance Officer.
- 1.1.8 'Monitoring Officer' means the Officer designated under *Section 5(1) of the Local Government and Housing Act 1989* – the Council's Joint Executive Head of Legal and Democratic Services has been designated the Monitoring Officer.
- 1.1.9 'Statutory Chief Officer' means, in accordance with *section 2(6) Local Government and Housing Act 1989*, the officer responsible for the purposes of *s151 of the Local*

## PART 4 – OFFICER EMPLOYMENT PROCEDURE RULES

*Government Act 1972* for the administration of the authority's financial affairs - the Council's Chief Finance Officer is a Statutory Chief Officer.

- 1.1.10 'Non-statutory Chief Officer' means, in accordance with *section 2(7) Local Government and Housing Act 1989* a person for whom the Head of Paid Service is directly responsible, a person who as respects all or most of the duties of their post is required to report directly or is directly accountable to the Head of Paid Service, or a person who as respects all or most of the duties of their post is required to report directly or is directly accountable to the local authority themselves, (except a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services) – the Council's Joint Strategic Directors are designated Non-statutory Chief Officers.
- 1.1.11 'Deputy Chief Officer' means, in accordance with *section 2(8) Local Government and Housing Act 1989* a person who, with respect to all or most of the duties of their post, is required to report directly or is directly accountable to one or more of the Statutory or Non-Statutory Chief Officers – the Council's Joint Executive Heads of Service, other than the Joint Executive Head of Finance are designated Deputy Chief Officers.
- 1.1.12 'Joint Senior Staff Committee' means a Committee set up in accordance with *s102 Local Government Act 1972* between Guildford Borough Council and Waverley Borough Council. The Terms of reference of the Joint Senior Staff Committee can be found in Part 3 of the Council's constitution.
- 1.1.13 'Proper Officer' means an Officer appointed by the Council to discharge a particular function, or functions, and whose role is listed in the schedule of proper officers in Part 3 of the Constitution.

### 1.2 Scope of these Procedure Rules

These procedure rules govern the specific arrangements for the recruitment, appointment and disciplinary action (including dismissal) of the Joint Head of Paid Service, the Joint Chief Finance Officer, the Joint Monitoring Officer the Joint Strategic Directors and the Joint Executive Heads of Service.

The function of recruitment, appointment, disciplinary action, and dismissal in respect of all other staff must be discharged, on behalf of the Council, by the Head of Paid Service or an Officer nominated by them (in accordance with *paragraph 2 Part II schedule 1 of the 2001 Regulations*).

Such functions will be carried out in accordance with the Council's Human Resource policies, as adopted from time to time.

### 1.3 Posts

For ease of reference, the posts which fall under the relevant definitions in these Officer Employment Procedure Rules, at the time of writing, are as follows:

Definition	Relevant Post
Head of Paid Service	Joint Chief Executive
Statutory Chief Officer	Joint Executive Head of Finance
Monitoring Officer	Joint Executive Head of Legal and

## PART 4 – OFFICER EMPLOYMENT PROCEDURE RULES

	Democratic Services
Non-Statutory Chief Officers	Joint Strategic Directors
Deputy Chief Officers	Joint Executive Heads of Service, other than the Joint Executive Head of Finance.

### 2.0 RECRUITMENT

#### 2.1 Declarations

A candidate for any employment with the Council, or a staff member involved in a transfer or promotion, to such a post, shall disclose to the Head of Paid Service, whether they are related to, or cohabit with, any Councillor or other Officer or any other person who may have an influence on the decision to appoint.

Any candidate who fails to disclose such a relationship may be disqualified for appointment and any offer of appointment being rescinded and, if appointed, may be liable to dismissal without notice.

Every Councillor and Senior Officer (being an Officer comprising part of the Joint Management Team) of the Council shall disclose to the Head of Paid Service any relationship known to exist between them and any person whom they know to be a candidate for an appointment to the Council.

The Head of Paid Service will report to the Monitoring Officer on any such required disclosures made to them.

#### 2.2 Support for Appointment

The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or Senior Officer (being an Officer comprising part of the Joint Management Team) for any appointment with the Council.

No Councillor nor Senior Officer (comprising part of the Joint Management Team) shall seek support for any person for any appointment with the Council and shall not provide any written testimonial of a candidate's ability, experience, or character for submission to the Council.

#### 2.3 Confidentiality

The Council, the Executive, a Joint Committee, a Committee, a Sub-Committee, or a Panel should, unless there are exceptional circumstances which dictate otherwise, resolve to exclude the press and public under Section 100A of the Local Government Act 1972 where matters relating to the appointment, promotion, dismissal or discipline, severance, salary, or conditions of an individual member of staff or individual post are to be discussed.

#### 2.4 Process and Procedure

- 2.4.1 Where the Council proposes to appoint an Officer within the Joint Management Team, being either the Head of Paid Service, the Statutory Chief Officer, the Monitoring Officer, a Non-Statutory Chief Officer or Deputy Chief Officer, and it is

not proposed that the appointment will be made exclusively from among their existing Officers, the Head of Paid Service or their delegate 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) advertise the post in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) send a copy of the statement mentioned in paragraph (a) above to any person on request.
- (d) Where a post has been advertised as provided in (b) above, the Council will:
  - (i) interview all qualified applicants for the post; or
  - (ii) select a short list of such qualified applicants and interview those included on the short list; or
  - (iii) if no qualified person has applied, the Council will make further arrangements for advertisement in accordance with paragraph (b) above.

### **3.0 APPOINTMENT**

#### **3.1 Appointment of Joint Chief Executive and designation of Head of Paid Service**

The Joint Senior Staff Committee will be responsible for the recruitment process and selection of the Head of Paid Service and for making a recommendation to the Council of both Waverley Borough Council and Guildford Borough Council for the appointment of their preferred candidate.

Each Council will be responsible for appointing the Joint Chief Executive and the designation of the Head of Paid Service to the role, and must do so before an offer of such an appointment is made.

The Councils may only make such an appointment following the consultation requirements set out at paragraph 3.5 below.

#### **3.2 Appointment of Joint Strategic Directors**

The Joint Senior Staff Committee will also be responsible for the recruitment and selection process of the Joint Strategic Directors and for appointing their preferred candidates.

The Joint Senior Staff Committee may only make such appointments following the consultation requirements set out at paragraph 3.5 below.

#### **3.3 Designation of the Joint Monitoring Officer and Joint Chief Finance Officer**

The Joint Senior Staff Committee will also be responsible for the recruitment and selection process of the Joint Monitoring Officer and Joint Chief Finance Officer. The Joint Senior Staff Committee are responsible for making a recommendation to the Council of both Waverley Borough Council and Guildford Borough Council for the designation of the role to their preferred candidate.

Each Council will be responsible for designating an Officer as the Joint Monitoring Officer and as the Joint Chief Finance Officer, and must do so before an offer of any such designation is made.

An offer of employment as Joint Monitoring Officer or Joint Chief Finance Officer may only be made following the consultation requirements set out at paragraph 3.5 below.

### **3.4 Appointment of Joint Executive Heads of Service**

The Head of Paid Service, or their nominated representative, shall be responsible for the function of the appointment of Deputy Chief Officers. The Head of Paid Service's nominated representative may include an Officer of the Council of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence.

An offer of employment as a Joint Executive Head of Service may only be made following the consultation requirements set out in paragraph 3.5 below.

### **3.5 Consultation Requirements for Appointments**

In respect of the appointment of the Joint Head of Paid Service, the Joint Monitoring Officer, the Joint Chief Finance Officer, the Joint Strategic Directors and the Joint Executive Heads of Service, the offer of appointment cannot be made until this section has been complied with.

An offer of appointment to any of those Officers, as above, must not be made by the Appointor until:

- (a) The Appointor has notified the Proper Officer of the name of the person to whom the Appointor wishes to make the offer and any other particulars which the Appointor considers are relevant to the appointment, including evidence and reasons for the choice of preferred candidate.
- (b) The Proper Officer has notified every Executive Member of each Council of:
  - (i) the name of the person to whom the Appointor wishes to make the offer, and the reasons why they are the Appointor's preferred candidate, including evidence;
  - (ii) any other particulars relevant to the appointment which the Appointor has notified to the Proper Officer; and



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- (iii) the period within which any objection to the making of the offer is to be made by the Leader of either Council on behalf of their respective Executive to the Proper Officer; and
- (c) either:
  - (i) the Leader of either Council has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Proper Officer that neither they nor any other Member of their Executive has any objection to the making of the offer; or
  - (ii) the Proper Officer has notified the Appointor that no objection was received by them within that period from the Leader of either Council; or
  - (iii) the Appointor is satisfied that any objection received from the Leader of either Council within that period is not material or is not well-founded.

### 3.6 Appointment of Senior Officers

Post	Appointment	Conditions
Head of Paid Service	Joint Senior Staff Committee	Requires consultation with each of the Executives and resolution of each full Councils
Statutory Chief Officer (S151)	Joint Senior Staff Committee	Requires consultation with each of the Executives and resolution of each full Councils
Monitoring Officer	Joint Senior Staff Committee	Requires consultation with each of the Executives and approval of each full Councils
Non-Statutory Chief Officers	Joint Senior Staff Committee	Requires consultation with each of the Executives
Deputy Chief Officers	Head of Paid Service or nominee	Requires consultation with each of the Executives

### 4.0 DISCIPLINARY ACTION

#### 4.1 Disciplinary Action in respect of the Joint Head of Paid Service, Joint Chief Finance Officer and Joint Monitoring Officer

4.1.1 The Joint Senior Staff Committee shall consider any alleged misconduct in respect of the Joint Head of Paid Service, Joint Chief Finance Officer, and Joint Monitoring Officer. The Joint Senior Staff Committee will appoint an external, suitably qualified, experienced and competent, investigator to act as the Investigating Officer to conduct an investigation into the alleged misconduct and report back to the Committee with their Investigator's Report.

4.1.2 In carrying out the investigation the Investigating Officer may:

- (a) Inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect; and

## PART 4 – OFFICER EMPLOYMENT PROCEDURE RULES

- (b) Require any Officer or Elected Member to answer questions concerning the conduct of the relevant Officer.
- 4.1.3 Pending the report of the Investigator the Joint Head of Paid Service, the Joint Monitoring Officer or the Joint Chief Finance Officer may be suspended by the Joint Senior Staff Committee whilst the alleged misconduct by the Officer is investigated. Any such suspension will be for a maximum period of three calendar months, or for such period as may be necessary to investigate and report on the allegations, and will be on full pay, other than in exceptional circumstances.
- 4.1.4 Following receipt of the report of the Investigating Officer, the Joint Senior Staff Committee will determine any disciplinary action, other than dismissal, to be taken, as necessary, in accordance with any Human Resources Policies which have been adopted by the Council from time to time. The Joint Senior Staff Committee has the authority to impose any disciplinary action, other than dismissal.
- 4.1.5 The Council's Joint Head of Paid Service, Joint Monitoring Officer and Joint Chief Finance Officer cannot be dismissed without a resolution to that effect by each Council, as the full Council of each authority is responsible for the function of dismissal of such an Officer.
- 4.1.6 Should the Joint Senior Staff Committee consider that the relevant disciplinary action to be taken, having considered the Investigator's Report, is dismissal of the Officer, an Independent Panel must be appointed by the authority, or an Officer to whom the task is delegated. Such an Independent Panel will be formed in accordance with the 2015 Regulations, and shall be a committee appointed by the authority under section 102(4) Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of such officers.
- 4.1.7 The authority, or an Officer to whom the task is delegated, will invite Independent Persons who have been appointed for the purposes of the Members' Conduct Regime under section 28(7) of the Localism Act 2011 to form an Independent Panel. An Independent Panel will be formed if two or more Independent Persons accept the invitation.
- 4.1.8 The role of the Independent Panel is to prepare a report for each Council setting out their advice, views and recommendations as to the proposed dismissal.
- 4.1.9 Where dismissal is being considered, a meeting of each full Council must be convened within 20 working days of the Independent Panel being appointed, to consider and determine the matter.
- 4.1.10 A Joint Head of Paid Service, Joint Chief Finance Officer or Joint Monitoring Officer attending a Council meeting where proposed dismissal against them is being considered, is entitled to make both oral and written representations to Council, as is their representative, who may be a colleague, a Union representative, a companion, or a legal representative.
- 4.1.11 Before taking a vote at such a Council meeting on whether or not to approve such a proposed dismissal, the Council must take into account:

- (a) any advice, views or recommendations of the Independent Panel;
- (b) the conclusions of any investigation into the alleged misconduct;
- (c) any representations from the relevant Officer or their representative.

#### **4.2 Disciplinary Action in respect of Joint Strategic Directors**

- 4.2.1 The Joint Senior Staff Committee shall consider any alleged misconduct in respect of the Joint Strategic Directors and will appoint an external, suitably qualified, experienced and competent, investigator to act as the Investigating Officer to conduct an investigation into the alleged misconduct and report back to the Committee with their Investigator's Report.
- 4.2.2 In carrying out the investigation the Investigating Officer may:
  - (a) Inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect; and
  - (b) Require any Officer or Elected Member to answer questions concerning the conduct of the relevant Officer.
- 4.2.3 Pending the report of the Investigator the Joint Strategic Director may be suspended by the Joint Senior Staff Committee whilst the alleged misconduct by the Officer is investigated. Any such suspension will be for a maximum period of three calendar months, or for such period as may be necessary to investigate and report on the allegations, and will be on full pay, other than in exceptional circumstances.
- 4.2.4 Following receipt of the report of the Investigating Officer, the Joint Senior Staff Committee will determine any disciplinary action, including dismissal, to be taken, as necessary, in accordance with any Human Resources Policies which have been adopted by the Council from time to time. The Joint Senior Staff Committee has the authority to impose any disciplinary action, and shall be responsible for the function of dismissal where appropriate.

#### **4.3 Disciplinary Action in respect of Joint Executive Heads of Service**

- 4.3.1 The Joint Head of Paid Service or their nominated representative, will investigate any alleged misconduct in respect of Deputy Chief Officers, as necessary, in accordance with any Human Resources Policies which have been adopted by the Council from time to time.
- 4.3.2 The Joint Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence.
- 4.3.3 Pending the outcome of such investigation the Deputy Chief Officer may be suspended by the Joint Head of Paid Service or their nominated representative.

**PART 4 – OFFICER EMPLOYMENT PROCEDURE RULES**

Such suspension will be for no longer than 3 calendar months, or for such period as may be necessary to investigate and report on the allegations, and will be on full pay, other than in exceptional circumstances.

4.3.4 Subject to paragraph 4.4 below, the Joint Head of Paid Service, or a representative nominated by them, shall decide upon any disciplinary action to be taken, following a disciplinary hearing, and shall be responsible for the function of dismissal, where appropriate, of Deputy Chief Officers. Such nominated representative may not be the same individual responsible for the investigation into alleged misconduct and must be wholly independent from that individual.

**4.4 Disciplinary Action of Senior Officers**

<b>Post</b>	<b>Investigation</b>	<b>Notes</b>	<b>Appeal</b>
Head of Paid Services, Chief Finance Officer and Monitoring Officer	Investigating Officer appointed by the Joint Senior Staff Committee who presents findings to Joint Senior Staff Committee who have the power to impose disciplinary action other than dismissal	Decision to dismiss must be taken by Council, following consideration of the views of the Independent Panel and consultation with the Executives of each Council.	None
Non-Statutory Chief Officers	Investigating Officer appointed by the Joint Senior Staff Committee who presents findings to Joint Senior Staff Committee who have the power to impose disciplinary action including dismissal.	Decision to dismiss is the responsibility of the Joint Senior Staff Committee but may only be taken following consultation with the Executives of each Council.	None
Deputy Chief Officers	Head of Paid Service or their representative	Decision to dismiss may only be taken following consultation with the Executives of each Councils.	Joint Head of Paid Service or their representative provided such individual played no part in the investigation.

**4.5 Consultation Requirements for Dismissals**

4.5.1 This provision applies to the dismissal of The Head of Paid Service, the Chief Finance Officer, the Monitoring Officer, Non-Statutory Chief Officers, and Deputy Chief Officers.

4.5.2 Notice of dismissal of any of those Officers must not be given by the Dismissor until:

## PART 4 – OFFICER EMPLOYMENT PROCEDURE RULES

- (a) the Dismissor has notified the Proper Officer of the name of the person whom the Dismissor wishes to dismiss and any other particulars which the Dismissor considers are relevant to the dismissal, including a summary of the evidence heard at the disciplinary hearing and the reasons for the proposed decision;
- (b) the Proper Officer has notified every Executive Member of both Councils of:
  - (i) the name of the person whom the Dismissor wishes to dismiss and the reasons for the decision;
  - (ii) any other particulars relevant to the dismissal which the Dismissor has notified to the Proper Officer; and
  - (iii) the period within which any objection to the dismissal is to be made by the Executive Leader of either Council on behalf of their respective Executive to the Proper Officer; and
- (c) either:
  - (i) the Executive Leader of either Authority has, within the period specified in the notice under subparagraph (b)(iii), notified the Proper Officer that neither they nor any other Member of their Executive has any objection to the dismissal;
  - (ii) the Proper Officer has notified the Dismissor that no objection was received by them within that period from either Executive Leader; or
  - (iii) the Dismissor is satisfied that any objection received from an Executive Leader within that period is not material or is not well-founded.

### 4.6 Appeals

- 4.6.1 The Joint Head of Paid Service, Joint Chief Finance Officer, Joint Monitoring Officer and Joint Strategic Directors shall have no right of appeal against disciplinary action.
- 4.6.2 Deputy Chief Officers who feel that the outcome of any Disciplinary Action against them is wrong or unjust may appeal in accordance with any relevant Council Staffing Policies to the Joint Head of Paid Service or their nominated representative.
- 4.6.2 The Joint Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence. Such nominated representative must not be the same individual responsible for carrying out the investigation into the alleged misconduct, nor the same individual responsible for deciding upon the disciplinary action, and must be wholly independent from those individuals.

**GUILDFORD BOROUGH COUNCIL**  
**PROCUREMENT PROCEDURE RULES**

**May 2021**

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## PART 4 – PROCUREMENT PROCEDURE RULES

### Part 1

#### 1 INTRODUCTION

- 1.1 These Procurement Procedure Rules apply to all purchases of works, goods, and services by the Council. They provide a framework within which all the procurement activity of the Council is undertaken. The object of these Rules is to ensure that all the Council's procurement activity regardless of value is fair, open, transparent, non-discriminatory, and lawful. Their observance is mandatory. The Rules are to protect the interests of the Council and also councillors and officers from the risk of challenge, undue criticism, or allegations of wrongdoing.
- 1.2 Procurement decisions are among the most important decisions a local authority will make in order to ensure that public money is appropriately directed and that the goods, works, and services are procured effectively and in accordance with Procurement Legislation and represent best value. The Council's reputation is equally important and should be safeguarded from any imputation of dishonesty or corruption.
- 1.3 These Procedure Rules should be seen as setting minimum requirements. Where better value for the Council might be achieved by seeking more tenders or quotations this should be done. The threshold for engaging with the Procurement Team is for all expenditure in excess of £1,500.
- 1.4 Corporate Procurement Board (CPB) is to take an active role in the management of the procurement process. The CPB will ensure that the processes and reporting requirements are followed and will enable the identification of areas of strength and weakness within the procurement function. It will seek out solutions and better methods of working, encouraging consistency and efficiency to achieve best value through the procurement process across the Council.
- 1.5 If there is any relevant change to English Law, which affects these rules then that change must be observed until these rules can be revised. Where there is a difference between these Rules and the current legislation, the legislation will prevail.
- 1.6 The Council is required by section 135 of the Local Government Act 1972 to maintain these Rules as part of the Constitution.
- 1.7 The Council's Monitoring Officer has Delegated Authority to make minor amendments to the Constitution and therefore these Rules. The Senior Specialist Procurement together with the Lead Specialist Legal in consultation with the Lead Councillor, shall publish details of any substantial amendments, following formal approval by full Council.
- 1.8 Procurement and Legal are the custodian of these Rules and are responsible for keeping them under review.

### Part 2

#### 2 KEY PRINCIPLES

- 2.1 These Rules are based on the following key principles:
  - (a) To ensure that the Council meets its statutory duty to deliver **best value for money** and creates healthy competition and markets for the Goods, Services and Works purchased

## PART 4 – PROCUREMENT PROCEDURE RULES

- (b) To be **transparent** to our residents about how the Council spend their money
- (c) To ensure that public money is spent **legally** and **fairly**
- (d) To support **sustainability** and **social value objectives**, and our public sector **equality** duty, encouraging local small businesses.

### 3 APPLICATION

#### 3.1 These Rules apply to:

- 3.1.1 All contracts for the supply of works, goods, or services (including consultancy) to the Council, regardless of value.
- 3.1.2 Partnership and collaborative arrangements with other bodies.
- 3.1.3 Concession Contracts

#### 3.2 These Rules do not apply to:

- 3.2.1 Contracts for the purchase or sale of any interest in land including leasehold interests and licences, which are purely land transactions, for which reference should be made to the Financial Procedure Rules.
- 3.2.2 Contracts of employment for the appointment of individual members of staff.
- 3.2.3 Grant agreements, where the Council is giving an unconditional grant.
- 3.2.4 Sponsorship agreements regulated by the Sponsorship Rules.
- 3.2.5 Supply of works, goods, and services by the Council. [The Lead Specialist – Legal must be consulted where the Council is contemplating this route.]
- 3.2.6 Contracts procured in collaboration with other local authorities where the Council is not the lead authority (subject to the necessary approvals having been obtained from the appropriate decision maker at the Council). The Procurement/Contract Procedure Rules of the lead authority shall apply. Assurance is to be sought that the lead authority is acting in compliance with its own contract procedure rules.

#### 3.3 Exemptions to these Rules

- 3.3.1 In all cases, where an exemption to the tendering or quotation process is sought the Strategic Director or Executive Head of Service for the area shall obtain the consent of the Corporate Procurement Board. The Senior Specialist - Procurement will document the exemption request, all reasons for the exemption request and record the decision. **It should be noted that no exemptions are permitted if the value requires compliance with the National Procurement Directives and thresholds.**
- 3.3.2 The following circumstances represent the permitted exemptions from all or part of these Rules. Tenders or quotations need not be sought in the following circumstances:



## **PART 4 – PROCUREMENT PROCEDURE RULES**

3.3.2.1 The price of the goods or materials is wholly controlled by trade organisations, government order or statutory undertakers where they have monopoly status and no satisfactory alternative is available;

3.3.2.2 The work to be executed or the goods or materials to be supplied consist of repairs to or the supply of parts for existing proprietary machinery or plant or the execution of work or supply of goods or services or materials necessary for maintenance or repairs to existing machinery or plant;

3.3.2.3 Where the work to be executed or goods to be supplied are required urgently and would not, therefore, permit the invitation of quotations or tenders;

3.3.2.4 The execution of works or the supply of services is of such a specialised nature that in the opinion of the Strategic Director or Executive Head of Service the number of prospective contractors is less than required by these rules. In this case, tenders or quotations shall be obtained from the sole or all available suppliers who possess the relevant knowledge or expertise;

3.3.2.5 the nature of the market for the goods, works or services has been investigated and it is demonstrated that a departure from the Regulations is justified.

3.3.2.6 If it is in the overall best interest of the Council.

3.3.2.7 Legal services falling within Regulation 10(i)(d) of the Public Contracts Regulations 2015.

3.3.3 The Senior Specialist Procurement will report on exemptions to the CPB and has authority to approve any direct award requests under the value of £10,000.

### **4 COMPLIANCE**

4.1 Every Contract entered into on behalf of the Council shall comply with

- these Procurement Procedure Rules.
- the Council's Financial Procedure Rules, and
- all relevant legislation.

4.2 All members of staff and consultants engaged in any capacity to manage or supervise the procurement of any works, goods or services for the Council must comply with these Procurement Procedure Rules. The attention of Officers is drawn to the Council's Code of Conduct for Staff at Part 5 of the Constitution. Non-compliance with these Rules may constitute grounds for disciplinary action.

4.3 Generally, work must not begin under a contract until both parties have signed the contract document, except in the cases of urgency when the approval of the Lead Specialist – Legal is to be obtained. Letters of intent may only be provided with the approval of the Lead Specialist - Legal who must agree the terms of any such letter. If a Letter of Intent is provided a contract must be signed as soon as possible thereafter.

## **PART 4 – PROCUREMENT PROCEDURE RULES**

- 4.4 If there is any doubt about the application of the rules the issues should be referred to the Senior Specialist - Procurement.

### **5 CONFLICTS OF INTEREST**

- 5.1 Members of staff must avoid any conflict between their own interests and the interests of the Council. This is a requirement of the Council's Code of Conduct for Staff and includes:

5.1.1 not accepting gifts or hospitality from organisations or suppliers that the Council has dealings with;

5.1.2 not working for organisations or suppliers that the Council has dealings with;

5.1.3 notifying the Strategic Director or Executive Head of Service in writing if an officer has links with an organisation or supplier who is tendering or quoting for a contract with the Council or already has a contract with the Council (for example, a family member or close friend works for the organisation).

- 5.2 All consultants engaged to act on behalf of the Council must declare that they will avoid any conflict between their own interests or those of any of their other clients and the interests of the Council.

- 5.3 If a councillor or a member of staff has an interest, financial, otherwise, in a contract, or proposed contract, he/she must declare it in writing to the Monitoring Officer as soon as he/she becomes aware of the interest. A councillor or member of staff who has an interest in a contract must not take part in the procurement or management of that contract.

### **6 PREVENTION OF BRIBERY AND CORRUPTION**

- 6.1 A contract may be terminated immediately, and any losses to the Council arising from the termination recovered from the supplier, if the supplier, or anyone acting on his behalf (with or without the supplier's knowledge), offers or promises or gives a financial or other advantage to a councillor any member of staff or any consultant in connection with the contract.

- 6.2 Any councillor, member of staff or consultant who becomes aware or has reason to believe that a supplier or potential supplier has committed one of the corrupt acts referred to in Rule 4.1, must report it to the Monitoring Officer.

- 6.3 The Monitoring Officer must maintain a record of all declarations of interest notified by Councillors and Officers.

### **Part 3**

### **7 RESPONSIBILITIES OF THE PROCUREMENT SERVICE**

- 7.1 The Procurement service is responsible for
- (a) Delivering the Procurement Strategy adopting a Category Management approach to the Councils expenditure and purchasing activity.
  - (b) Ensuring transparency over spend, contracts and contract opportunities
  - (c) Embedding social value and sustainability across the supply chain
  - (d) Ensuring efficient and effective purchasing practices are in place for all staff

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- (e) Providing general commercial advice and support as required,
- (f) Ensuring suppliers are aware of, and follow, the Council's Supplier Code of Conduct when bidding and carrying out contracts
- (g) Approving all new supplier set up requests
- (h) Authorising any Procurement card transactions outside of the nominated card holders
- (i) Purchasing from existing contracts where they are appropriate and in place
- (j) Ensuring there is adequate budget available prior to any procurement activity commencing
- (k) Taking a commercial lead on all major contracts and relationships with suppliers alongside the Contract Manager

### **8 ROLE AND RESPONSIBILITIES OF THE CORPORATE PROCUREMENT BOARD (CPB)**

8.1 The Council recognise that, in order to achieve consistency and compliance with these Regulations and the Procurement Strategy, there is a need for the involvement of key corporate advisers in all significant procurement processes. All procurement of goods, works or services in excess of the National thresholds, must be referred to the CPB.

8.2 The CPB will consist of the following Officers (or their nominated deputies):

- Joint Executive Head of Finance
  - Senior Specialist Procurement
  - Financial Services representative
  - Legal Services representative
- Procurement Specialists together with the Service leads shall routinely attend Corporate Procurement Board to present proposals and updates.
  - Deputies must attend if the primary representative is not available.

8.3 The CPB aims to ensure that the Council's Procurement Procedure Rules, Scheme of Delegation and Procurement Strategy is implemented in all cases and at all stages.

8.4 The CPB shall operate a Procurement Gateway process whereby a full report is presented to CPB for sign off, this is split into two stages as follows:

- Gateway part one: Commissioning and Procurement Strategy.
- Gateway part two: Tender Evaluation and Contract Award.

8.5 Any failure to consult the CPB at the appropriate time shall be deemed to be a breach of these Regulations.

### **9 RESPONSIBILITIES OF EXECUTIVE HEADS OF SERVICE**

9.1 Executive Heads of Service must ensure adequate budget provision is in place prior to engaging in any Procurement activity. Procuring officers must observe the Council's Financial Procedure Rules at all times.

9.2 It is the responsibility of each Executive Head of Service:

9.2.1 To incorporate within their service plan, a list of all current and forecast contract opportunities for the upcoming three years. This list is to be updated as necessary throughout the year and shared with the Procurement Team to inform the pipeline of work.

## PART 4 – PROCUREMENT PROCEDURE RULES

- 9.2.2 To ensure that all procurements and contracts within the named department comply with Procurement Procedure Rules, Financial Procedure Rules, and all applicable public procurement legislation.
  - 9.2.3 To ensure those officers to whom they delegate their functions are aware of the strategic direction of the service and have authorisation to engage with procurement.
  - 9.2.4 To manage Contracts within the named department to ensure that contracts deliver best value, are operated effectively, efficiently, and economically, and are operated in accordance with the contract provisions.
  - 9.2.5 To keep adequate records to show compliance with the Procurement Procedure Rules, Financial Procedure Rules and all relevant legislation.
- 9.3 At the outset of each procurement, the Executive Head of Service must in conjunction with the Procurement Team:
- 9.3.1 assess the business needs determining whether the requirement shall be subject to the project and programme governance board prior to commencing procurement
  - 9.3.2 ensure the procurement complies with corporate policies and priorities
  - 9.3.3 review ethical, social and sustainability issues
  - 9.3.4 consider potential contractual relationships
  - 9.3.5 undertake a risk management exercise at the start of any procurement exercise, which is commensurate with the value and complexity of the procurement
  - 9.3.6 undertake when appropriate a pre-market testing exercise
  - 9.3.7 ensure that adequate provision has been made within the Council's capital or revenue estimates and that proper technical and financial appraisals of the procurement have been carried out in accordance with the Council's Financial Procedure Rules.

### 10 TENDERING THRESHOLDS

- 10.1 The following minimum number of invitations to tender or quote shall apply to all contracts including those let to the Voluntary / Not for Profit Sector, subject to National procurement regulations (including aggregation).

Type of procurement and total cost threshold	Minimum number of invitations to tender or quote	Responsibility
Goods, Works, and Services estimated to cost no more than <b>£1,500</b>	<b>No requirement to seek Procurement advice</b> but key principles outlined in Part 2, section 2 apply.	<b>Service led</b>

## PART 4 – PROCUREMENT PROCEDURE RULES

Type of procurement and total cost threshold	Minimum number of invitations to tender or quote	Responsibility
Goods, Works, and Services estimated to cost between <b>£1,500</b> and <b>£50,000</b>	<b>Seek procurement advice on route to market to demonstrate best value</b>	<b>Procurement led together with Service</b>
Goods, Works, and Services estimated to cost between <b>£50,000</b> and the National threshold for Goods and Services limit ( <b>currently £189,330 or £663,540 for Light Touch Regime contract</b> )	<b>Formal Tenders</b>	<b>Procurement led together with Service</b>
Goods, Works, and Services estimated to cost above the relevant National tendering threshold. ( <b>works currently £4,733,252</b> )	<b>In accordance with the Public Contract Regulations 2015 as a minimum.</b> Approval from Corporate Procurement Board at Gateway One/Two.	<b>Procurement led together with Service</b>

### 11 ESTIMATE OF TOTAL CONTRACT VALUE (TCV)

- 11.1 The value of a contract is the **total** amount that the Council expects to pay for the contract, including any contract extension period and any options within the contract.
- 11.2 Contracts must **not** be packaged or divided into smaller units for the purpose of creating lower value contracts to avoid any provision of these Rules or national procurement legislation. When tendering consideration must be given to the extent to which it is appropriate to divide the contract into lots to facilitate opportunities for small businesses and voluntary organisations.

### 12 SPECIFICATION / EVALUATION CRITERIA/ ROUTE TO MARKET

- 12.1 Each procurement must be appropriately specified, and selection and award criteria must be formulated in advance to ensure the Council obtains value for money, the procurement process is transparent, and the desired outcome is obtained. Tenders will be assessed on a price / technical split in order to determine the Most Economically Advantageous Tender (MEAT) the weightings and price / technical split will be determined by Procurement taking into account the requirements of the service area.
- 12.2 All works, goods and services must be specified by reference to national standards. The specification must be a clear and comprehensive description of the Council's requirements and should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable a proper assessment to be made of the supplier's ability to meet the Council's requirements.
- 12.3 The appropriate route to market must be selected as advised by the Procurement Officer or approved by CPB where required by these Rules. This may be a Request for quote (RFQ) or an Invitation to Tender (ITT) or a two stage procedure when Tenderers are invited to submit initial information via a Selection Questionnaire (SQ) and a number qualify to receive an ITT on the basis of the information provided.

## **PART 4 – PROCUREMENT PROCEDURE RULES**

Additional procedures including Competitive Dialogue, Competitive procedure with Negotiation, Frameworks and Dynamic Purchasing System (DPS) may be available but advice must be taken from the Procurement team on the most appropriate route.

### **13. SOCIAL VALUE**

- 13.1 The Public Services (Social Value) Act 2012 places a requirement on officers who commission, or buy, public services to consider securing added economic, social, or environmental benefits for their local area.
- 13.2 The Act currently applies only to service Contracts over the National Tendering threshold but must be considered in all procurements where applicable.
- 13.3 Social value should form part of a bidder's commitments at tender stage and should be tailored to the subject nature of the contract being awarded

### **14. MODERN SLAVERY**

- 14.1 The Modern Slavery Act 2015 was implemented to tackle modern slavery, defined in the act as slavery, servitude, forced or compulsory labour, human trafficking, and exploitation.
- 14.2 The Council adopted the Modern Slavery Motion in 2020 and has an obligation to report annually on its progress. Proportionate due diligence is therefore undertaken to certify that Council appointed contractors do not participate in modern slavery, either directly or within their supply chains.

### **15. CLIMATE CHANGE**

- 15.1 On 23 July 2019 the Council declared a climate emergency across the borough with an ambition of reducing the Council's carbon emissions to net-zero by 2030. As such for every procurement within the scope of these Rules, the environmental impact must be considered, the emphasis should be placed on minimising the carbon footprint and a relevant clause included in the contract where possible.

### **16 E-TENDERING**

- 16.1 All procurement is to take place through the Council's e-tendering portal any exceptions are to be agreed by the Senior Specialist Procurement. The e-tendering portal must be used for all returns which records the time received and all the necessary information to satisfy audit and transparency principles.
- 16.2 Any tender received after the date and time indicated on the Tender documentation will be excluded from the process.

### **17 CONTRACTS REGISTER**

- 17.1 Spend data, contract opportunities and awards are published in accordance with government requirements and Transparency Agenda, Council expenditure with suppliers that exceeds £500 is published and all contracts valued at £5,000 and above are available on the publicly accessible Contracts Register, this can be found on the Council's public website.
- 17.2 Any advertised opportunity valued over £25,000 must be advertised on Contracts finder, for Contracts over £25,000 a Contract award notice must also be published.

## **PART 4 – PROCUREMENT PROCEDURE RULES**

- 17.3 Freedom of Information – in accordance with the Freedom of Information Act (FOIA) 2000 and Environmental Information Regulations (EIR) 2004, the Council has an obligation to publish specific information and to provide information to members of the public upon request. By exception confidential or commercially sensitive information may be withheld.

### **Part 4**

## **18 LEGAL CONSIDERATIONS**

### **18.1 CONTRACT DOCUMENTS**

Wherever practicable, work under a contract must not start until the contract documents and all other procedures have been completed to the satisfaction of the Executive Head of Service or, in the case of a procurement valued at £100,000 or more, the Executive Head of Service and the Lead Specialist - Legal. A letter of intent must not be issued unless approved by the Lead Specialist - Legal.

### **18.2 TUPE**

Where relevant, the procuring officer must consider the implications of the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended and consult with the allocated Legal advisor as to their application.

### **18.3 DISPUTE RESOLUTION**

The procuring officer must consider the procedure for resolving disputes arising in relation to the procurement and, where appropriate, contracts shall contain provisions for alternative dispute resolution.

### **18.4 DEEDS, SEALING AND SIGNING OF CONTRACTS**

18.4.1 Any contract valued at £100,000 or more must, unless the Lead Specialist - Legal determines otherwise, be sealed with the common seal of the Council. In exceptional cases where the Lead Specialist - Legal decides that a contract which amounts to or exceeds £100,000 in value does not require the common seal, it must be signed, subject to compliance with the Council's Procurement Procedure Rules and Financial Procedure Rules, by Legal services under the authority of a Delegated Authority signed by the Joint Chief Executive, relevant Strategic Director or Executive Head of Service.

18.4.2 Contracts less than £100,000 in value must be signed by Legal Services under the authority of a Delegated Authority Form signed by the Joint Chief Executive, relevant Strategic Director or Executive Head of Service or may be sealed with the common seal of the Council in cases where the Lead Specialist - Legal considers it to be appropriate.

### **18.5 CONTRACT TERMS**

18.5.1 Every contract entered into by the Council for the provision of works, goods or services which exceeds £500 in value (and in any other case where the Strategic Director or Executive Head of Service shall require) shall:

18.5.2 Specify the works to be executed and goods or services to be supplied;

## **PART 4 – PROCUREMENT PROCEDURE RULES**

- 18.5.3 State the price to be paid detailing the frequency and method of calculation together with a statement as to the amount of any discounts or other deductions and requiring payment within 30 days of receipt of a valid invoice;
- 18.5.4 State the period or times within which the contract is to be performed;
- 18.5.5 Prohibit any assignment or sub-letting of the contract without the express agreement in writing of the Council;
- 18.5.6 State that the Council may cancel the contract and recover any resulting losses if the contractor, his employees or anyone acting on his behalf, with or without his knowledge, does anything improper to influence the Council or commits an offence under Bribery Act 2010;
- 18.5.7 Require the supplier to comply with the requirements of the Health and Safety at Work etc. Act 1974, and any other relevant Acts, Regulations or Orders pertaining to health and safety;
- 18.5.8 Require the contractor to comply with the Equality Act 2010 including the Public Sector Equality Duty, the Modern Slavery Act 2015, freedom of information requests and data protection law.
- 18.5.9 State that if the Contractor enters into liquidation or administration, the Council is entitled to cancel the contract and recover any resulting losses
- 18.5.10 State the minimum insurance levels required to be held by the contractor
- 18.6 For contracts with a value in excess of £100,000, if appropriate, make provision for the payment of liquidated damages by the contractor where he fails to complete the contract within the time specified. The level of liquidated damages must be determined by the Strategic Director or Executive Head of Service.
- 18.7 For every contract with a value of £100,000 or more, require and take sufficient security for the due performance of the contract, unless the Chief Finance Officer deems this inappropriate.
- 18.8 For contracts which permit sub-contracting, the contractor is to be required to impose on the sub-contractors equivalent contractual requirements in terms of equality, health and safety, bribery and corruption, insurance, data protection, modern slavery, and payment provisions.
- 19. PERFORMANCE BOND/PARENT COMPANY GUARANTEE**
- 19.1 The Procuring Officer must consult the Lead Specialist Finance to determine whether a Parent Company Guarantee, Performance Bond or in an appropriate case, a deposited sum is necessary and at what level when the total contract value is in excess of £1 million and there is concern about the stability of the bidder following financial appraisal.
- 19.2 Any decision taken in accordance with 19.1 above must be recorded by the Procuring Officer.



## **PART 4 – PROCUREMENT PROCEDURE RULES**

### **20 INSURANCE**

- 20.1 It is the responsibility of the Executive Head of Service, in consultation with the Insurance Officer to set, where appropriate, adequate levels of insurance for every procurement in respect of employers' liability, product liability, professional indemnity, third party and fire and material damage. As a guide the level of insurance required shall not, unless exceptional circumstances prevail, be less than £10 million for employer's liability insurance, £5 million for public liability insurance and £2 million for professional indemnity insurance.
- 20.2 The procuring officer must ensure that any insurance required by the Council is held by the provider with a reputable insurance company(ies) and that the policy(ies) are renewed as necessary during the contract period.

**OUTLINE STEPS TO BE TAKEN TO PROCURE**

These steps are part of the formal rules for undertaking procurement and bound by the formalities of the Council’s Constitution. Procurement will keep a full trail of documents relating to each procurement undertaken.

<p><b>STEP 1</b> IDENTIFY NEED</p>	<ul style="list-style-type: none"> <li>• Procurement is required to commence in good time, having identified the requirement in the Service Plan. This will allow adequate time to re procure and enable the proper procurement and legal guidance necessary to carry out the procurement. The process for urgent procurement is set out in separate guidance.</li> <li>• The Procurement initiation form (PIF) requests budget approval from Finance to perform the procurement before commencement.</li> </ul>
<p><b>STEP 2</b> DEVELOP BUSINESS CASE</p>	<ul style="list-style-type: none"> <li>• An estimated value of the contract is required at the outset, ensuring that there is adequate budget provision for lifetime of the contract or the process for obtaining funds (e.g. CMT approval; Executive approval) has taken place and this is in accordance with the financial procedure rules.</li> <li>• Procurement will provide advice on the route to market options and determine the recommended percentage split of price / technical for the purposes of the evaluation.</li> </ul>
<p><b>STEP 3</b> IDENTIFY MARKET</p>	<ul style="list-style-type: none"> <li>• Pre-market consultation with potential suppliers to establish that the market can meet the requirement for good, works or services is permitted until the point at which the Tender is released. Dialogue with the market pre-procurement is encouraged not only to bring the opportunity to the attention of the market but also to assist in a greater understanding of the marketplace for specific products or services. This intelligence can help to inform the specification.</li> <li>• Steps must be taken to ensure pre-market engagement does not distort competition or violate the transparency and non-discrimination principles. This exercise may also shape your thinking about what alternatives might exist or how suppliers might deliver the Council’s requirements with the latest innovation.</li> </ul>

## PART 4 – PROCUREMENT PROCEDURE RULES

<b>STEP 4</b> DEVELOP TENDER DOCUMENTATION	<ul style="list-style-type: none"><li>• The specification development and technical evaluation criteria is led by the service. Procurement hold the ownership of the Procurement documentation and application through the e-tendering system.</li><li>• Best value for the Council must be achieved by balancing cost and technical to produce the most economically advantageous solution over the lifetime of the contract.</li></ul>
<b>STEP 5</b> UNDERTAKE PROCUREMENT PROCESS	<ul style="list-style-type: none"><li>• Procurement will undertake the process including advertising on appropriate channels, developing, and issuing documentation via the Council’s e-tendering portal, assess due diligence, evaluate the price element, lead the moderation session, and take the process to award. Service are responsible for conducting the technical evaluation. At least three officers are required to do this independently on above threshold activity.</li></ul>
<b>STEP 6</b> AWARD AND IMPLEMENTATION OF CONTRACT	<ul style="list-style-type: none"><li>• Legal will be notified upon commencement of the standstill period of intent to award to the successful supplier.</li><li>• The contract will be finalised in standstill and will be issued on expiry of the standstill period.</li><li>• Procurement will record the contract on the Council’s Contract Register.</li></ul>
<b>STEP 7</b> CONTRACT MANGEMENT	<ul style="list-style-type: none"><li>• All contracts will have a contract manager nominated by the Strategic Director or Executive Head of Service.</li><li>• The role of the contract manager is to manage the contract throughout its duration, as well as enforce duties owed to the Council and to take responsibility for those duties owed to the contractor.</li><li>• The contract manager will –<ul style="list-style-type: none"><li>- monitor performance of the contractor against the agreed level of service,</li><li>- monitor the continuing level of operational and financial risk to which the Council is exposed and to institute controls as appropriate,</li><li>- ensure the contractors’ due diligence with all appropriate health and safety obligations,</li><li>- facilitate the resolutions of issues between the contractor and users of the service,</li><li>- ensure prompt payment of invoices and compliance with all financial regulations and contract standing orders during the lifetime of the contract,</li><li>- ensure that appropriate arrangements are made for the termination or re-letting of the contract at the appropriate time in conjunction with procurement.</li></ul></li></ul>

## GUILDFORD BOROUGH COUNCIL

### FINANCIAL PROCEDURE RULES

#### 1 INTRODUCTION

- 1.1 Financial Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every councillor and officer of the Council and anyone acting on its behalf.
- 1.2 Financial procedure rules shall not override any statutory provisions that apply.
- 1.3 These procedure rules outline the system of financial administration approved by the Council to secure the proper administration of its financial affairs, as required by Section 151 of the Local Government Act 1972, and should be read in conjunction with the Council's Procurement Procedure Rules, Corporate Procurement Manual and Guidance on the Control of Capital Projects.
- 1.4 The procedure rules identify the financial responsibilities of the Council, Executive, Joint Chief Executive (JCE), Monitoring Officer (MO), Chief Finance Officer (CFO), Strategic Directors, Executive Heads of Service and Budget Managers.
- 1.5 All councillors and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 1.6 The CFO is responsible for maintaining a continuous review of these procedure rules and submitting any additions or changes necessary to Council for approval. The CFO is also responsible for reporting, where appropriate, breaches of the Rules to Council and/or the Executive.
- 1.7 Strategic Directors are responsible for ensuring that all staff in their respective service portfolios are aware of the existence and content of these Procedure Rules and other internal regulatory documents and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their service portfolio or that staff are aware of the existence of the procedure rules on the Intranet.
- 1.8 The CFO is responsible for issuing advice and guidance to underpin the Procedure Rules that councillors, officers and others acting on behalf of the Council are required to follow.
- 1.9 The CFO has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:
- (i) Section 151 of the Local Government Act 1972
  - (ii) Local Government Finance Act 1988 and 1992
  - (iii) Local Government and Housing Act 1989
  - (iv) Accounts and Audit Regulations, as current legislation
  - (v) Local Government Act 2003
  - (vi) Localism Act 2011

## PART 4 – FINANCIAL PROCEDURE RULES

- (vii) The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (as amended)

1.10 The CFO is responsible for:

- (i) the proper administration of the Council's financial affairs
- (ii) ensuring that the accounts of the Council are prepared in accordance with the Accounting Code of Practice
- (iii) setting and monitoring compliance with financial management standards
- (iv) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- (v) providing financial information
- (vi) preparing the revenue budget and capital programme
- (vii) treasury management

1.11 Section 114 of the Local Government Finance Act 1988 requires the CFO to report to Council, the Executive and external auditor if the Council or one of its officers:

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

Section 114 of the 1988 Act also requires:

- (i) the CFO to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under Section 114 personally
- (ii) the Council to provide the CFO with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under Section 114

1.12 Strategic Directors are responsible for:

- (i) ensuring that councillors are advised of the financial implications of all proposals and that the financial implications have been agreed by the CFO;
- (ii) signing contracts on behalf of the Council in accordance with Appendix 1 of the Procurement Procedure Rules
- (iii) ensuring all staff in their service units are made aware of and fully understand the requirements and implications of these procedure rules as far as they relate to their particular duties and responsibilities.

1.13 Executive Heads of Service are responsible for:

- (i) ensuring that councillors are advised of the financial implications of all proposals and that the financial implications have been agreed by the CFO;
- (ii) signing contracts on behalf of the Council in accordance with Appendix 1 of the Procurement Procedure Rules
- (iii) ensuring all staff in their service are made aware of and fully understand the requirements and implications of these procedure rules as far as they relate to their particular duties and responsibilities.

## FINANCIAL PROCEDURE NOTE A: FINANCIAL PLANNING

### A.1 INTRODUCTION

A.1.1 Council is responsible for agreeing the Council's budget and policy framework, which will be proposed by the lead councillor with responsibility for finance. In terms of financial planning, the key document is the Budget Book and Medium Term Financial Plan, which will include:

- (i) the annual budget
- (ii) three year financial plan
- (iii) capital programmes

### A.2 FORMAT OF THE BUDGET

A.2.1 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

A.2.2 The general format of the budget will be approved by Council and proposed by the lead councillor with responsibility for finance on the advice of the CFO. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

A.2.3 Guidelines on budget preparation are issued to Councillors, Strategic Directors and Executive Heads of Service by the Executive following agreement with the CFO. The guidelines will take account of:

- (i) legal requirements
- (ii) medium-term planning prospects
- (iii) available resources
- (iv) spending pressures
- (v) relevant government guidelines
- (vi) internal policy documents
- (vii) crosscutting issues (where relevant).

### A.2.4 Key Controls

The key controls for the budget format are:

- (i) the format complies with all legal requirements
- (ii) the format complies with the Chartered Institute of Public Finance and Accountancy's (CIPFA's) Service Reporting Code of Practice (SeRCOP)
- (iii) the format reflects the accountabilities of service delivery.

### A.2.5 Responsibilities of the Chief Finance Officer

- (i) to determine the format of the budget in line with the general directions of the Executive.

**A.2.6 Responsibilities of Strategic Directors, Executive Heads of Service and Service Leaders**

- (i) to comply with accounting guidance provided by the CFO.

**A.3 REVENUE BUDGET PREPARATION**

A.3.1 The CFO is responsible for ensuring that a revenue budget is prepared on an annual basis and a general revenue plan on a three-yearly basis for consideration by the Executive, before submission to Council. Council will consider the budget in accordance with the Budget and Policy Framework Procedure Rules in Part 4 of the Constitution.

A.3.2 The detailed form of the budget shall be determined by the CFO, consistent with the general direction of the Executive.

**A.4 BUDGETS AND MEDIUM-TERM PLANNING**

A.4.1 The Council is a complex organisation responsible for delivering a wide variety of services. It 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.

A.4.2 A report on new proposals should explain the full financial implications, following consultation with the CFO. Unless Council or the Executive has agreed otherwise, Strategic Directors must plan to contain the financial implications of such proposals within their budget.

A.4.3 Medium-term planning (or a three to five-year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the Council is always preparing for events in advance.

**A.4.4 Key Controls**

The key controls for budgets and medium-term planning are:

- (i) specific budget approval for all expenditure
- (ii) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability
- (iii) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

**A.4.5 Responsibilities of the Chief Finance Officer**

- (i) in accordance with their responsibilities under Section 151 of the Local Government Act 1972, to report annually to Council on the revenue and capital programmes, including any resource constraints which may be set by the Government, taking account of medium term planning, the implications of spending decisions and adequacy of the level of revenue and capital reserves. The budget report will include an opinion on the robustness of the estimates presented, adequacy of reserves and any finance or service risks.

- (ii) to prepare and submit a budget report on financial plans for Council, including resource constraints set by the government. Reports should take account of medium-term prospects, where appropriate
- (iii) to prepare and submit a budget report to Council on the aggregate spending plans of service portfolios and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied
- (iv) to advise on the medium-term implications of spending decisions
- (v) to encourage the best use of resources and value for money by working with Strategic Directors and Executive Heads of Service to identify opportunities to improve economy, efficiency and effectiveness and by encouraging good practice in conducting financial appraisals of development or savings options and in developing financial aspects of service planning
- (vi) to carry out a Budget Risk Assessment, as part of the budget report each year to identify financial and service risks and the extent of the risk, in order to ascertain potential unbudgeted liabilities and provide information to Council in setting the level of reserves.

**A.4.6 Responsibilities of Strategic Directors**

- (i) to prepare estimates of income and expenditure for the next and following three financial years, in consultation with the CFO, to be submitted to the Executive
- (ii) to prepare budget estimates that are consistent with the Council's annual budget cycle. The format should be prescribed by the CFO in accordance with the Council's constitution
- (iii) to integrate financial and budget plans into business planning, so that business plans can be supported by financial and non-financial performance measures
- (iv) in consultation with the CFO to prepare detailed draft revenue and capital budgets for consideration by Council in accordance with the guidance and timetable issued by the CFO
- (v) when drawing up draft budget requirements, to have regard to:
  - spending patterns and pressures revealed through the budget monitoring process
  - legal requirements
  - policy requirements as defined by the Council in the approved policy framework; and
  - Initiatives already under way.
- (vi) to work with the CFO in identifying opportunities to improve value for money, encourage good practice in conducting financial appraisals, and in developing financial aspects of service planning
- (vii) in consultation with the CFO, to carry out a Budget Risk Assessment each year to identify financial and service risks and the extent of the risk, in order to ascertain potential unbudgeted liabilities and provide information in setting the level of reserves.

**A.4.7 Responsibilities of Budget Managers**

- (i) in consultation with the CFO to prepare detailed draft revenue and capital budgets for consideration by Council in accordance with the guidance and timetable issued by the CFO
- (ii) when drawing up draft budget requirements, to have regard to:



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- spending patterns and pressures revealed through the budget monitoring process
  - legal requirements
  - policy requirements as defined by the Council in the approved policy framework
  - initiatives already under way
- (iii) to work with the CFO in identifying opportunities to improve value for money, encourage good practice in conducting financial appraisals, and in developing financial aspects of service planning.

### A.5 RESOURCE ALLOCATION

A.5.1 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is, therefore, imperative that needs/desires are carefully prioritised and that resources are fairly allocated in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

#### A.5.2 Key Controls

The key controls for resource allocation are:

- (i) a policy decision by the Executive or Council
- (ii) resources are acquired in accordance with the law using an approved authorisation process
- (iii) resources are used only for the purpose intended, to achieve the approved policies and objectives and are properly accounted for
- (iv) resources are securely held for use when required
- (v) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

#### A.5.3 Responsibilities of the Chief Finance Officer

- (i) to develop and maintain a resource allocation process that ensures due consideration of the Council's policy framework
- (ii) to advise on methods available for the funding of resources, such as grants from central government and borrowing requirements
- (iii) to assist in the allocation of resources to budget managers.

#### A.5.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to work within budget limits and to utilise resources allocated and further allocate resources in the most efficient, effective and economic way
- (ii) to identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

### A.6 CAPITAL PROGRAMMES

A.6.1 Capital expenditure is expenditure mainly for buying, constructing or improving physical assets. In order to count as capital expenditure, new assets or improvements to existing assets must have a life of more than one year and it must enhance the life, use or value of an asset, as defined by the CIPFA Practitioners' Guide to Capital Finance in Local Government.

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- A.6.2 Capital expenditure may be included as one of two programmes - Housing Improvement Programme (Housing Revenue Account) and General Fund.
- A.6.3 Capital projects are placed on the provisional capital programme in the first instance, unless otherwise approved by Council. The inclusion of items in the approved capital programmes will generally constitute authority to incur such expenditure subject to compliance with any conditions, which the Executive shall have placed, on any item or items.

### A.6.4 **Key Controls**

The key controls for capital programmes are:

- (i) approval by Council for the capital programme, including a business case for each new scheme, and an update for existing schemes
- (ii) the relevant Executive Head of Service is required to prepare a capital bid for a new scheme, together with estimated costs, including construction costs, internal and external fees, fitting out and staffing resources necessary to deliver the project etc. All costs must be included and estimates should be as accurate as possible and include any ongoing revenue costs
- (iii) a named manager has responsibility for each scheme in the capital programmes
- (iv) bids submitted as part of the annual budget / business-planning process will be evaluated and assessed against criteria agreed at the start of the process. They will then be submitted to the Executive who will make recommendations as to the inclusion of the schemes in the programme to Council
- (v) the Executive Head of Assets and Property has overall responsibility for the Council's non-housing stock land and building assets. All proposed capital works to or impacting on non-housing land and buildings must be approved by the Executive Head of Assets and Property
- (vi) projects will, unless otherwise agreed, be placed on the provisional capital programme, subject to further approval as outlined in (viii) and (ix)
- (vii) all borrowing, capital receipts, disposals or use of capital reserves to finance the Capital Programme must be approved by Council when setting the Capital Programme at Budget Council, or by the CFO thereafter
- (viii) for project expenditure of over £200,000 on capital projects, responsible officers will need to submit an updated business case, including costs, project plan, timescales and associated revenue expenditure for approval by the Executive before the project budget is moved to the approved capital programme, from the provisional capital programme
- (ix) for project expenditure under £200,000, responsible officers will need to submit a business case, as detailed in (viii) above to the CFO
- (x) once a project budget is on the approved capital programme, the responsible officer will assume responsibility for its progression, control and completion, including invitations to tender and selection of contractors and / or consultants
- (xi) the responsible officer will have control over the scope and budget of the project, subject to the detail approved by the Executive or CFO. The responsible officer does not have authority to change the project brief or cost without approval of the Executive or CFO
- (xii) the responsible officer will liaise with the Lead Specialist - Finance, who has responsibility for monitoring the capital programme as a whole, on progress of the project and details of costs so detailed project monitoring can be undertaken and the effect on the Council's resources can be monitored
- (xiii) the responsible officer will organise, and chair, a project team

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- (xiv) the Capital Monitoring Group will meet throughout the year and has responsibility for monitoring the capital programme as a whole. Monitoring reports, on property related capital projects, will be submitted to the property review group, quarterly monitoring on the whole programme will be submitted to Corporate Management Board (CMB)
- (xv) any variances to the project brief or the cost of the project, and the correcting action, must be reported in line with the finance procedure rules.

### A.6.5 Responsibilities of the Chief Finance Officer

- (i) To authorise expenditure from the Council's capital contingency fund for new capital projects up to a maximum gross project cost of £100,000 or for existing approved capital projects up to a maximum of 20% of the gross project cost or £200,000 whichever is the lower amount in accordance with the Council's financial procedure rules for capital virements.
- (ii) to prepare capital estimates and updated projections of current schemes, with CMB and Executive Heads of Service, and to report them to the Executive for approval, for both General Fund and Housing programmes. The Executive will make recommendations on the capital estimates and on any associated financing requirements to Council
- (iii) to prepare and submit monitoring reports to CMB and the Corporate Governance and Standards Committee on the projected income, expenditure and resources used to finance the programmes compared with the approved estimates
- (iv) to issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the CFO having regard to government regulations and accounting requirements
- (v) in consultation with the Strategic Directors and Executive Heads of Service, to obtain authorisation for individual schemes where the estimated expenditure exceeds the capital programme provision in accordance with the limits set in the Council's virement or supplementary estimate section of these Financial Procedure Rules
- (vi) to approve the re-phasing of capital schemes within the capital programme between financial years, subject to the availability of resources, to make the most effective use of those resources
- (vii) to add expenditure to the approved capital programme where it is fully financed by grant, s106, SPA and CIL receipts and the project has been approved by the appropriate lead councillor and the relevant Strategic Directors or Executive Heads of Service
- (viii) To authorise moving up to £200,000 from capital projects on the provisional capital programme to the approved capital programme where a business case has been submitted by the responsible officers

### A.6.6 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to comply with guidance concerning capital schemes and controls issued by the CFO
- (ii) to ensure that all capital proposals have undergone a project appraisal in accordance with the business plan guidance issued by the CFO
- (iii) to prepare a business case to move a project from the provisional to the approved capital programme in accordance with the key controls paragraph A.6.4

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- (iv) to prepare regular reports reviewing the capital programme for their services. They should also prepare a quarterly return of estimated final costs of schemes in the capital programme for submission to the CFO
- (v) to ensure that adequate records are maintained for all capital contracts
- (vi) to proceed with projects only when there is adequate provision in the approved capital programme
- (vii) to ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the CFO and, if applicable, approval of the scheme through the capital programme in accordance with section C.8.10 of the finance procedure rules
- (viii) to consult with the CFO and CMB before any service submits a bid for external funding, and to seek the approval of the CFO (under delegated authority) to add expenditure that is not currently included in the capital programme.

### A.7 STAFFING

A.7.1 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.

#### A.7.2 Key Controls

The key controls for staffing are:

- (i) an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched
- (ii) procedures are in place for forecasting staffing requirements and cost.
- (iii) controls are implemented that ensure staff time is used efficiently and to the benefit of the Council
- (iv) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

#### A.7.3 Responsibilities of the Chief Finance Officer

- (i) to ensure that budget provision exists for all existing and new employees, based on information supplied by Human Resources and Executive Heads of Service
- (ii) to act as an adviser to Strategic Directors and Executive Heads of Service on areas such as national insurance and pension contributions, as appropriate.

#### A.7.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to agree an annual staffing budget for all services, on the basis of information provided by the CFO
- (ii) to ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads)
- (iii) to monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff
- (iv) to ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided
- (v) to ensure that the CFO are immediately informed if the staffing budget is likely to be materially over or underspent.

**A.8 FEES AND CHARGES**

The Council is required to set its fees and charges annually as part of the budget setting process.

**Key Controls**

- (i) Strategic Directors and Executive Heads of Service shall set the established fees and charges annually for approval by Council
- (ii) Fees and Charges shall be increased in accordance with the Corporate Charging Policy and the rate of inflation as confirmed by the Executive
- (iii) in-year increases above or below inflation can be approved by the CFO in consultation with the appropriate lead councillor and lead councillor with responsibility for finance subject to no adverse on-going budgetary implications
- (iv) in exceptional circumstances and subject to the foregoing requirement, charges may be increased, reduced or waived for a specified (temporary) period to promote a service or facility by the Strategic Director in consultation with the CFO subject to there being no ongoing budgetary implications. This may include introducing a casual charge for the purpose of defraying costs of a special event. Any such change must be fully documented.

**A.8.1 Responsibilities of the Chief Finance Officer**

- (i) To submit the list of the Council's fees and charges to Council for approval as part of the budget report
- (ii) To prepare and submit a corporate charging policy for approval by Executive
- (iii) To approve in year variations to fees and charges in consultation with the relevant Strategic Directors or Executive Heads of Service subject to there being no ongoing budgetary implications

**A.8.2 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) To inform the CFO of their proposed fees and charges for inclusion in the budget report for approval by Council
- (ii) To set fees and charges in line with the Corporate Charging Policy
- (iii) To approve in year variations to fees and charges in consultation with the CFO subject to there being no ongoing budgetary implications

## FINANCIAL PROCEDURE NOTE B: FINANCIAL MANAGEMENT AND CONTROL

### B.1 INTRODUCTION

- B.1.1 Financial management and control covers all financial accountabilities in relation to the financial running of the Council and control of the approved budget
- B.1.2 The role of Council, the Executive and other committees and those of the Council's statutory officers in relation to these matters are set out in the Council's Constitution. Full details of the responsibilities of the CFO are set out in the overall introduction to these Financial Procedure Rules.
- B.1.3 It is the responsibility of Strategic Directors and Executive Heads of Service to consult the CFO and seek approval on any matter liable to affect the Council's finances before any additional budgetary commitments are committed.

### B.2 FINANCIAL MANAGEMENT STANDARDS

- B.2.1 All staff and councillors have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring that everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

#### B.2.2 Key Controls

The key controls and control objectives for financial management standards are:

- (i) their promotion throughout the Council
- (ii) a monitoring system to review compliance with financial standards and regular comparisons of performance indicators and benchmark standards that are reported to the Executive and/or Council

#### B.2.3 Responsibilities of the Chief Finance Officer

- (i) to ensure the proper administration of the financial affairs of the Council
- (ii) to set the financial management standards and to monitor compliance with them
- (iii) to ensure that officers adhere to proper professional practices and to act as head of profession in relation to the standards, performance and development of finance staff throughout the Council
- (iv) to ensure key strategic controls necessary to secure sound financial management are in place.
- (v) To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

**B.2.4 Responsibilities of Strategic Directors**

- (i) to promote the financial management standards set by the CFO in their service portfolio and to monitor adherence to the standards and practices, liaising as necessary with the CFO
- (ii) to promote sound financial practices in relation to the standards, performance and development of staff in their service portfolio
- (iii) to prepare, in consultation with the CFO, any necessary financial instructions detailing the action to be taken within their service to ensure compliance with the Constitution and Financial Procedure Rules. Copies of these instructions and any future amendments should be held within the service section on the Council's intranet

**B.3 ACCOUNTING POLICIES**

**B.3.1** The CFO is responsible for the preparation of the Council's and any subsidiary's annual statement of accounts, in accordance with proper accounting practices. These practices primarily comprise the Code of Practice on Local Authority Accounting in the United Kingdom and the Service Reporting Code of Practice (CIPFA/LASAAC), supported by International Financial Reporting Standards.

**B.3.2 Key Controls**

The key controls for accounting policies are:

- (i) systems of internal control are in place that ensure financial transactions are lawful
- (ii) suitable accounting policies are selected and applied consistently
- (iii) proper accounting records are maintained
- (iv) financial statements are prepared which present a true and fair view of the financial position of the Council and of its expenditure and income.

**B.3.3 Responsibilities of the Chief Finance Officer**

- (i) to select suitable accounting policies and to ensure that they are applied consistently
- (ii) to exercise supervision over financial and accounting records and systems with a view to ensuring their uniformity, co-ordination and compatibility. The accounting policies are set out in the statement of accounts
- (iii) To prepare and publish reports the statement of accounts

**B.3.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) to adhere to the accounting policies and guidelines approved by the CFO
- (ii) to obtain the approval of the CFO before introducing any books, forms or procedures or other records relating to cash, stores or other accounts of the Council which may affect the Council's finances
- (iii) to submit to the CFO any information as the latter considers necessary for accounting and costing purposes and allow the CFO access at all reasonable times to all accounting records and documents, which may affect the Council's finances
- (iv) to consult the CFO when publishing any financial information

**B.4 ACCOUNT RECORDS AND RETURNS**

- B.4.1 The form of accounts, procedures, and supporting financial records of the Council and its officers and the Council's subsidiary organisations shall be determined by the CFO. No new accounting systems shall be introduced at the Council and its subsidiaries, or changes to existing financial systems without the approval of the CFO.
- B.4.2 The Council maintains and audits unofficial funds, which for this purpose shall be defined as any funds, associated with Council business, supervised or managed by Council staff, but which are not part of Council funds or trust funds of the Council.
- B.4.3 Any employee holding unofficial funds must deliver up a true account in writing of all money and property committed to their charge and of receipts and payments with vouchers and other documents and records supporting the entries therein, and a list of persons from whom or to whom money is due, showing the amount due from or to each.
- B.4.4 Employees acting as honorary treasurers of unofficial funds shall notify the appropriate Strategic Director and CFO.

**B.4.5 Key Controls**

The key controls for accounting records and returns are:

- (i) all officers, finance staff and budget managers operate within the required accounting standards and timetables
- (ii) all the Council's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
- (iii) procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- (iv) reconciliation procedures are carried out to ensure transactions are correctly recorded
- (v) prime documents are retained in accordance with legislative and other requirements.

**B.4.6 Responsibilities of the Chief Finance Officer**

- (i) To determine the accounting procedures and records for the Council and any subsidiaries of the Council.
- (ii) to arrange for the compilation of all accounts and accounting records under their direction. The Monitoring Officer and Audit and Business Improvement Manager shall be consulted before any records, books, forms or procedures which might affect the financial integrity of the financial systems, are introduced
- (iii) 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; and
  - employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.



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- (iv) to make proper arrangements for the audit of the Council's and any Subsidiary's accounts in accordance with the latest Accounts and Audit Regulations
- (v) to ensure that all claims for funds, including grants are made by the due date.
- (vi) to prepare and publish the accounts of the Council for each financial year in accordance with the statutory timetable
- (vii) to administer the Council's arrangements for under and overspendings for each financial year
- (viii) to ensure the proper retention of financial documents in accordance with the requirements set out in the Council's document retention schedule.

### B.4.7 **Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) to consult and obtain the approval of the CFO before making any changes to accounting records and procedures
- (ii) to comply with the principles outlined in paragraph B.3.4 when allocating accounting duties and report to the CFO and Audit and Business Improvement Manager if it is not possible to comply with these principles
- (iii) to maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements
- (iv) to supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the CFO
- (v) to ensure the proper retention of financial documents under his or her control in accordance with the requirements of the Council's document retention schedule and the security and privacy of information in accordance with the Data Protection Act 2018.

## B.5 **REVENUE BUDGET MONITORING AND CONTROL**

- B.5.1 Budget monitoring ensures that once the budget has been approved by Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.
- B.5.2 By continuously 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 budget, approved when setting the overall budget. To ensure that the Council as a whole does not overspend, each service is required to manage its own expenditure within the budget allocated to it.
- B.5.3 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by individual Strategic Directors or Executive Heads of Service.
- B.5.4 For this purpose:
- a service unit includes relevant service areas, headed by a Strategic Director or a Executive Head of Service as defined in the Council's budget book
  - a defined service is as stated in the service unit summary in the budget book

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- an account category is that stated on the subjective summary in the budget book
- an expenditure account, with an approved budget, is a line in the general ledger
- a Executive Head of Service, is a person who reports to a Strategic Director, is the manager of a service which is stated in the service unit summary in the budget book and is stated as the responsible officer on the service budget page in the budget book
- a budget manager is an officer with authority to spend an approved budget within a defined service area

### Key Controls

B.5.5 The key controls for managing and controlling the revenue budget are:

- (i) budget managers should be responsible only for income and expenditure that they can influence
- (ii) there is a nominated budget manager for each cost centre. This will be the service manager identified as the responsible officer in the Council's budget book for the service unless delegated to another manager
- (iii) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
- (iv) budget managers follow an approved certification process for all expenditure
- (v) income and expenditure are properly recorded and accounted for
- (vi) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.

B.5.6 **Responsibilities of the Chief Finance Officer**

- (i) to establish an appropriate framework of budget monitoring and control that ensures that:
  - budget management is exercised within annual budgets unless the Council agrees otherwise by virement or supplementary estimate.
  - each Strategic Director and Executive Head of Service has available timely information on receipts and payments on each budget, which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities.
  - expenditure is committed only against an approved expenditure account.
  - all officers responsible for committing expenditure comply with relevant guidance and the Financial Procedure Rules.
  - each service has a single named budget manager in the Council's budget book, determined by the relevant Strategic Director or Executive Head of Service. The budget manager is responsible for expenditure against the approved budget and as a general principle, the expenditure should align as closely as possible to the objectives of the service.
  - significant variances from approved budgets are investigated and reported by budget managers regularly
- (ii) to be responsible for providing appropriate financial information to enable budgets to be monitored effectively. They must monitor and control expenditure against budget allocations
- (iii) to administer the Council's scheme of virement

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- (iv) to provide Strategic Directors and Executive Heads of Service with a budgetary information service in a format devised by the CFO in consultation with Strategic Directors
- (v) to submit reports to the Executive and Council, in consultation with the relevant Strategic Directors or Executive Heads of Service, where a Strategic Director or Executive Head of Service is unable to balance expenditure and resources within existing approved budgets and virement procedures under his or her control
- (vi) to prepare and submit reports on the Council's projected income and expenditure compared with the budget to Directors and budget managers on a regular basis.

### **B.5.7 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) to ensure that budget estimates reflecting agreed business plans are submitted to the Executive and that these estimates are prepared in line with guidance issued by the Executive
- (ii) to control income and expenditure within their areas and to monitor performance, taking account of financial information provided by the CFO. They should also take any action necessary to avoid exceeding their budget allocation and alert the CFO to any problems
- (iii) to maintain budgetary control within their services, in adherence to the principles in B.4.7, and to ensure that all income and expenditure is properly recorded and accounted for
- (iv) to ensure that an accountable budget manager is identified for each item of income and expenditure under their control. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure
- (v) to ensure that spending remains within the service's overall budget and that individual account categories are not overspent by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast
- (vi) to inform the CFO whenever there is a likelihood that expenditure on any item/project will exceed the approved revenue or capital estimate for it, or that income will be less than the amount included in the estimates, unless a virement or supplementary estimate has been approved so that action in accordance with these Procedure Rules may be taken as necessary
- (vii) to ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively
- (viii) to ensure prior approval by Council or the Executive (as appropriate) for new proposals, of whatever amount, that:
  - create financial commitments in future years
  - change existing policies, initiate new policies or cease existing policies
  - materially extend or reduce the Council's services
- (ix) to report to the Executive on new proposals explaining the full financial implications, following consultation with the CFO. Unless Council or Executive has agreed otherwise, Strategic Directors and Executive Heads of Service must plan to contain the financial implications of such proposals within their budget
- (x) to ensure compliance with the scheme of virement

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- (xi) to agree with the relevant Strategic Directors or Executive Heads of Service where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Strategic Director's or Executive Head of Service's level of service activity
- (xii) to report to Executive for approval of any commitment, which may be contained in the current year's budget, but incurs additional expenditure or additional income in future years before any commitment is made. This is particularly relevant to Grant Funded expenditure.

### B.5.8 Responsibilities of Executive Heads of Service, Service Leaders, and Budget Managers

- (i) to ensure that budget estimates are submitted to the Strategic Directors and CFO so that they can submit them to Executive for approval
- (vi) to control income and expenditure within their areas and to monitor performance, taking account of financial information provided by the CFO. They should also take any action necessary to avoid exceeding their budget allocation and alert the CFO to any problems
- (vii) to report to Strategic Directors and CFO any commitment, which may be contained in the current year's budget, but incurs additional expenditure or additional income in future years before any commitment is made so that approval may be sought from Executive. This is particularly relevant to Grant Funded expenditure
- (viii) to inform the Strategic Directors and CFO whenever there is a likelihood that expenditure on any item/project will exceed the approved revenue or capital estimate for it or that income will be less than the amount included in the estimates, so that action in accordance with the Financial Procedure Rules may be taken as necessary
- (ix) to ensure prior approval by Council or the Executive (as appropriate) for new proposals, of whatever amount, that:
  - create financial commitments in future years
  - change existing policies, initiate new policies or cease existing policies; and
  - materially extend or reduce the Council's services.

### B.6 MANAGING EXPENDITURE: REVENUE VIREMENTS

B.6.1 Detailed guidance on the control of revenue virements is given in the following paragraphs and in section B.7 for supplementary estimates. In summary the limits are:

Service areas	Value limit	Agreement
<b>Virement</b>		
Cost centres relating to the same service, specific account categories	£100,000	CFO and relevant Executive Head of Service
Cost centres relating to different services but within the same service unit, specific account categories	£100,000	CFO and relevant Strategic Director
From any budget head within the employees category	£100,000	Joint Chief Executive; a report to CMB requesting approval is required
Cost Centres relating to different service units, specific	£100,000	Joint Chief Executive; a report to CMB requesting approval is

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<b>Service areas</b>	<b>Value limit</b>	<b>Agreement</b>
account categories		required
Between any service and any account categories	£100,001 - £200,000	Joint Chief Executive in consultation with appropriate lead councillor(s) and lead councillor with responsibility for finance, a report to CMB requesting approval is required
Between any service and any account categories	£200,001 - £500,000	Executive
Between any service and any account categories	Over £500,000	Council
<b>Supplementary Estimate</b>		
Any - subject to no on-going implication for future years over £100,000 and up to a total limit of £750,000 in any year	Up to £500,000	Executive
Any	Over £500,000	Council

A virement is the switching of resources between approved service estimates or account categories of expenditure, without creating additional budget liability. For the purposes of this scheme, a service is considered to be a service as listed in the service unit summary pages in the Council's budget book or, as a minimum, at an equivalent level to the standard service sub-division as defined by CIPFA's Service Expenditure Analysis. An account category is considered a line in the budget book. Council is responsible for agreeing the financial procedures for virement of expenditure.

B.6.2 The scheme of virement is intended to enable the Executive, Joint Chief Executive, Strategic Directors, Executive Heads of Service and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by Council and, therefore, to optimise the use of resources.

### B.6.3 Key Controls

Key controls for the scheme of virement are:

- (i) it is administered by the CFO within the Constitution set by the Council. Any variation from this scheme requires the approval of the Council
- (ii) the overall budget is approved annually by Council. Strategic Directors, Executive Heads of Service and budget managers are therefore, authorised to incur expenditure in accordance with the estimates that make up the budget

The procedure rules below cover virement, that is, the switching of an approved budget or part of an approved budget between different expenditure accounts, either in the same service area or between different service areas or between different service units.

- (iii) Strategic Directors, Executive Heads of Service and budget managers are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should not support recurring expenditure from one-off sources of savings or additional income, or create future

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commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Strategic Directors and Executive Heads of Service must plan to fund such commitments from within their own budgets.

- (iv) revenue virements may be made within the following criteria:
  - (a) Between expenditure accounts within the categories of premises, transport and supplies and services and within cost centres relating to the same service: to a maximum of £100,000, subject to the agreement of the CFO and relevant Executive Head of Service
  - (b) Between expenditure accounts within the categories of premises, transport and supplies and services, but between cost centres relating to different services within a service unit: to a maximum of £100,000, subject to the agreement of the CFO and relevant Strategic Director
  - (c) Between expenditure accounts within the categories of premises, transport and supplies and services, but between cost centres relating to different service units: to a maximum of £100,000, subject to the agreement of the Joint Chief Executive through a report to CMB
  - (d) From any expenditure accounts within the employee category: to a maximum of £100,000, subject to the agreement of the Joint Chief Executive through a report to CMB
  - (e) Joint Chief Executive, in consultation with the appropriate lead councillor(s) and lead councillor with responsibility for finance can approve virements between the value of £100,000 and £200,000, subject to a report to CMB
  - (f) Any virement with a value greater than £200,000 must be approved by the Executive to a limit of £500,000 and by Council for any greater amount
- (v) limitations to virement. Virement is not allowed:
  - (a) into expenditure accounts in the employee category, except when being vired within the employee category
  - (b) when one or both of the expenditure accounts concerned is an internal recharge
  - (c) when the opportunity to vire has been caused by the abandonment or reduction in the level of a service/item following a change in Council or national policy
- (vi) the following conditions must also be met for all virements:
  - (a) the proposal must conform to Council policy
  - (b) there must be no net increase in total revenue expenditure in the initial or any subsequent year as a result of the virement
  - (c) the virement must be made prior to the end of February of the relevant financial year
- (vii) where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that the amount is used in accordance with the purposes for which it has been established.

### B.6.4 Responsibilities of the Joint Chief Executive

- (i) to approve, as the chair of CMB, virements between services and non-employee account categories up to £100,000
- (ii) to approve, as chair of CMB, virements from any budget head in the employees account category up to £100,000

- (iii) to approve, as the chair of CMB, virements between £100,001 and £200,000 in consultation with appropriate lead councillor(s) and lead councillor with responsibility for finance

**B 6.5 Responsibilities of the Chief Finance Officer**

- (i) to approve, in consultation with the relevant Executive Head of Service or Strategic Director, virements up to £100,000 for cost centres relating to the same service and non-employee account categories
- (ii) to report to Corporate Governance and Standards Committee, as part of the budget monitoring process, virements that have been approved under delegated authority
- (iii) to prepare with the Strategic Director or Executive Head of Service, and where appropriate in consultation with the appropriate lead councillor and the lead councillor with responsibility for finance, a report to CMB seeking Joint Chief Executive approval for virements between service units under £100,000, virements from employee account categories under £100,000 or virements between £100,001 and £200,000
- (iv) to prepare with the Strategic Director or Executive Head of Service a report to the Executive seeking approval for virements between £200,001 and £500,000.
- (v) to prepare with the Strategic Director or Executive Head of Service a report to Council seeking approval for virements in excess of £500,000
- (vi) maintain a record of all revenue virements approved.

**B.6.6 Responsibilities of Budget Managers**

- (i) to submit requests for virements within the categories of premises, transport and supplies and services and within cost centres relating to the same service up to a maximum of £100,000 in writing, on a delegated authority form for approval by the appropriate Executive Head of Service to the CFO
- (ii) to submit requests for virements within the categories of premises, transport and supplies and services and within cost centres relating to different services up to a maximum of £100,000 in writing, on a delegated authority form for approval by the appropriate Strategic Director to the CFO
- (iii) to write and submit reports to CMB, in consultation with the CFO, as outlined in B.6.3 to seek approval for virements between service units or between any account code in the employee category
- (iv) to write and submit reports, in consultation with the CFO, to CMB, lead councillors, Executive or Council as outlined in B.6.3 to obtain approval for all virements exceeding £100,001

**B.7 REVENUE SUPPLEMENTARY ESTIMATES**

**B.7.1** A supplementary estimate is one that gives approval for increased expenditure or reduced income that was not included in the original budget and therefore increases the Council's overall net budget for the year.

**B.7.1 Key Controls**

The key controls for revenue supplementary estimates are:

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- (i) subject to (ii) below, any request for a revenue supplementary estimate shall first be submitted by the budget manager to the relevant Strategic Director in consultation with the CFO. The Executive may approve revenue supplementary estimates up to £500,000 subject to there being no on-going implication over £100,000 for future years, up to a maximum supplementary limit of £750,000 in any one year
- (ii) any supplementary estimate in excess of £500,000, or where there is an on-going implication for future years in excess of £100,000, shall require the approval of Council
- (iii) once the Executive have approved supplementary estimates totalling £750,000 for any one year, Council must approve any further requests
- (iv) in cases of urgency and with the agreement of the chairman of the Overview and Scrutiny Committee that the matter is urgent, the Leader of the Council and CFO shall be authorised to approve revenue supplementary estimates in excess of the limits specified in (i) to (iii) above where it is not practical to convene a quorate meeting of the Council.

### B.7.2 Responsibilities of the Chief Finance Officer

- (i) to prepare with the Strategic Director or Executive Head of Service a report to the Executive on requests for revenue supplementary estimates
- (ii) to maintain a record of all revenue supplementary estimates approved
- (iii) where external funding or specific grant funding is received after setting the revenue budget to amend the budget as set out in the Council's scheme of delegation

### B.7.3 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) all requests for revenue supplementary estimates shall be submitted in writing by the appropriate Strategic Director, Executive Head of Service, or Service Leader to the CFO.

## B.8 CAPITAL SUPPLEMENTARY ESTIMATES AND VIREMENTS

B.8.1 Detailed guidance on the control of capital virements and supplementary estimates is given in the following paragraphs. In summary the limits are:

Capital scheme	Value limit	Agreement
<u>Supplementary</u>		
Any	£1 million	Executive
Any	Over £1 million	Council
<u>Virement</u>		
Schemes on approved programme	£100,000	CFO in consultation with the appropriate lead councillor(s) and the lead councillor with responsibility for finance
Schemes on approved programme	£100,001 to £200,000	Joint Chief Executive, via a report to CMB in consultation with the appropriate lead councillor(s) and the lead



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		councillor with responsibility for finance
Schemes on approved programme	£200,001 - £1 million	Executive
Schemes on approved programme	Over £1 million	Council

- B.8.2 The rules on capital supplementary estimates and virements are intended to enable the Executive, CFO, Strategic Directors, Executive Heads of Service and their staff to manage capital budgets with a degree of flexibility within the overall programmes determined by Council and, therefore, to optimise the use of resources.
- B.8.3 A supplementary estimate is an extra sum of money added to the scheme budget and therefore creates an additional budget liability.
- B.8.4 A virement is a transfer of budget between schemes and does not create additional budget liability.
- B.8.5 The rules below cover supplementary estimates and virements between approved capital projects.
- B.8.6 **Key Controls**

Key controls for the rules relating to capital supplementary estimates and virements are:

- (i) they are administered by the CFO within the Constitution set by Council. Any variation from these rules requires the approval of Council
- (ii) overall capital programmes are agreed by the Executive and approved by Council. Strategic Directors, Executive Heads of Service and Budget Managers are authorised to incur expenditure in accordance with the approved estimates that make up the programmes.

### Supplementary estimates

- (iii) subject to (iv) below, any request for a capital supplementary estimate shall first be submitted to the Executive by the Strategic Director or Executive Head of Service concerned, in consultation with the CFO. The Executive may approve capital supplementary estimates up to £1 million. Any supplementary estimate in excess of this amount shall require the approval of Council.
- (iv) in cases of urgency, and with the agreement of the chairman of the Overview and Scrutiny Committee that the matter is urgent, the Leader of the Council and CFO shall be authorised to approve capital supplementary estimates in excess of the limits specified in (iii) above where it is not practical to convene a quorate meeting of Council.

### Virements

- (v) Strategic Directors and Executive Heads of Service are expected to exercise their discretion in managing capital projects responsibly and prudently. For example, they should aim to avoid creating future commitments, including full-year effects of decisions made part way through a year, for which they have

- not identified future resources. Strategic Directors and Executive Heads of Service must plan to fund such commitments from within their own budgets.
- (vi) The following conditions must be met for all capital virements:
    - (a) The proposal must conform to Council policy.
    - (b) There must be no net increase in total expenditure in the initial or any subsequent year as a result of the virement.
  - (vii) Virement that is likely to impact on the level of service activity of another Strategic Director or Executive Head of Service should be implemented only after agreement with the relevant Strategic Director or Executive Head of Service.
  - (viii) Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
    - (a) the amount is used in accordance with the purposes for which it has been established; and
    - (b) the Executive or Council has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Executive or Council (as appropriate).

**B.8.7 Responsibilities of the Chief Finance Officer**

- (i) To maintain a record of all capital supplementary estimates and virements approved

Supplementary estimates

- (ii) To prepare with the Strategic Director and Executive Head of Service a report to the Executive on requests for capital supplementary estimates. The Executive may approve capital supplementary estimates up to £1 million. Any supplementary estimate in excess of this amount shall require the approval of Council

Virements

- (iii) In consultation with the appropriate lead councillor(s) and the lead councillor with responsibility for finance, to approve virements between capital projects on the approved capital programme up to a maximum of £100,000.
- (iv) To prepare, with the Strategic Director or Executive Head of Service a report to CMB and appropriate lead councillors seeking Joint Chief Executive approval for virement between capital projects on the approved capital programme between £100,001 and £200,000
- (v) To prepare, with the Strategic Director or Executive Head of Service a report to the Executive seeking approval for virement between capital projects on the approved capital programme between £200,001 and £1 million. Any capital virement in excess of this amount shall require the approval of Council
- (vi) Where external funding or specific grant funding is received after setting the capital budget, to amend the budget as set out in the Council's scheme of delegation, in association with the appropriate lead councillor.

**B.8.8 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) All requests for capital supplementary estimates and virement between capital projects shall be submitted in writing, by the appropriate Strategic Director or Executive Head of Service, or Service Leader to the CFO, in a format determined by the CFO.

**B.9 TREATMENT OF YEAR-END BALANCES**

**B.9.1** The Rules below cover arrangements for the transfer of resources between accounting years (a carry-forward). For the purposes of this scheme, a budget heading is a line in the estimates report. A service is considered to be a service as listed in the service unit summary pages in the Council's budget book or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA in its Service Expenditure Analysis.

Specific grants will automatically be carried forward (as per B.9.2)

**B.9.2 Key Controls**

- (i) Appropriate accounting procedures are in operation to ensure that carried-forward totals are correct.
- (ii) Statutory ring-fenced budgets such as Building Control and Land Charges will be automatically carried forward by transferring any balances to reserves.
- (iii) Budgets for Capital Schemes, which are unspent, will be carried forward automatically.
- (iv) All other carry forward requests shall be considered by the CFO for approval after the end of the financial year.

**B.9.3 Responsibilities of the Chief Finance Officer**

- (i) In consultation with the Leader of the Council and Lead Councillor for Finance, to agree the treatment of any year-end balance on the General Fund and HRA

**B.9.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) Any overspending on service estimates in total on budgets under the control of a Strategic Director, Executive Head of Service, or Service Leader must be explained to the CFO. The CFO will report the extent of over and under-spending to the Corporate Governance and Standards Committee

**B.10 MAINTENANCE OF RESERVES AND BALANCES**

**B.10.1** The Council must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves and balances are maintained as a matter of prudence. They enable the Council to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

**B.10.2 Key Controls**

The key controls for maintenance of reserves and balances are:

- (i) To maintain reserves in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC) and agreed accounting policies.
- (ii) For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- (iii) Authorisation and expenditure from reserves by the appropriate Strategic Director or Executive Head of Service, in consultation with the CFO.

**B.10.3 Responsibilities of the Chief Finance Officer**

- (i) To advise the Executive and/or Council on prudent levels of reserves for the Council on a risk basis and to take account of the advice of the external auditor in this matter.
- (ii) To set up earmarked reserves for specific purposes subject to budget availability
- (iii) To approve the expenditure of earmarked reserves and provisions for defined uses in accordance with the council's agreed policy
- (iv) In consultation with the Lead Councillor with responsibility for finance to approve expenditure from the Council's Budget Pressures, Business Rates Equalisation, Investments' Capital Value and LABGI reserves
- (v) In consultation with the Lead Councillor with responsibility for finance, to approve the amount of any transfer to the Investment Property Rent Reserve as a result of rent review income above that included in the relevant years' estimates

**B.10.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) To ensure that resources are used only for the purposes for which they were intended.

**B.11 THE ANNUAL STATEMENT OF ACCOUNTS**

B.11.1 The Council has a statutory duty to prepare an annual statement of accounts. This duty falls to the CFO, who is required to ensure that the accounting procedures of the Council are sufficient to assure that any statements of accounts are complete, and that proper control systems exist to enable transactions to be timely and accurately recorded. The Corporate Governance and Standards Committee is responsible for approving the statutory annual statement of accounts.

**B.11.2 Key Controls**

The key controls for the annual statement of accounts are:

- (i) The Council is required to make arrangements for the proper administration of its financial affairs and to ensure that one of its officers has the responsibility for the administration of these affairs. In this Council, that officer is the CFO.

- (ii) The Council's statement of accounts must be prepared in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom (the Code).

**B.11.3 Responsibilities of the Chief Finance Officer**

- (i) To sign and date the annual statement of accounts, stating that it presents a true and fair view of the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March. To ensure that an Annual Governance Statement, is approved by the Corporate Governance and Standards Committee by the statutory deadline

**B.11.4 Responsibilities of the Lead Specialist - Finance (Deputy Chief Finance Officer)**

- (i) To ensure that the annual statement of accounts is prepared in accordance with the CIPFA / LASAAC Code of Practice on Local Authority Accounting in the United Kingdom. The Corporate Governance and Standards Committee is responsible for approving the annual statement of accounts by 31 July following the accounting date.
- (ii) To make judgements and estimates that are reasonable and prudent.
- (iii) To comply with the CIPFA Code.
- (iv) To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.
- (v) To report any unadjusted misstatements contained in the Accounts and other audit findings to the Corporate Governance and Standards Committee in consultation with the External Auditors.
- (vi) To ensure that the audited accounts of the Council are prepared and published in accordance with the statutory timetable.

**B.11.5 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) To comply with accounting guidance provided by the CFO and to supply the CFO with information within the deadlines set.

**B.12 TRANSPARENCY REPORTING**

B.12.1 Government transparency aims to increase openness by sharing more government information with citizens. As such, the Council is increasingly encouraged to publish the information it has on how money is spent by the Council and its agencies, which companies have contracts with the Council, and how the Council performs. The Council must comply with the prevailing Transparency Code and subsequent regulations.

B.12.2 Citizens have the right to inspect the Council's detailed financial accounts and all books, deeds, contracts, bills, vouchers and receipts relating to them for a period of 20 working days prior to the appointed audit date, as set annually by the External Auditor. The Council will publish notice of when the 20-day period starts and ends on its website and in the local press 14 days before the start of the period in line with the latest Accounts and Audit Regulations. These rights allow the public to check any spending under the £500 threshold without having to submit a Freedom of Information Act request.

**B.12.3 Responsibilities of the Lead Specialist - Finance**

- (i) To make available (on request) all the books, deeds, contracts, bills, vouchers and receipts relating to all expenditure within the Council's accounts to any member of the public for a period of 20 working days each year in accordance with statutory regulations
- (ii) To publish job titles of officers who hold senior positions (as defined by the transparency code) in the council, their job descriptions and total remuneration (e.g., salaries, bonus' payments, pension payments and expenses) for the previous year.
- (iii) To publish details on council payments and contracts for goods and services worth more than £500 (including procurement card transactions and procurement information) on the Council's website to show residents how the Council spends its budget
- (iv) To publish details of councillors' allowances and expenses on the Council's website on an annual basis as part of the transparency reporting.

**B.12.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) To ensure that adequate records of books, deeds, contracts, bills, vouchers and receipts relating to all expenditure within their service area are readily available and can be produced to the CFO when responding to a request from a member of the public during either the statutory period or as part of a Freedom of Information Act request.
- (ii) To ensure that the mandatory elements of the relevant Transparency Code are published, which include: expenditure exceeding £500; government procurement card transactions; procurement information; local authority land; grants to voluntary, community and social enterprise organisations; organisation chart; trade union facility time; parking revenues; controlled parking spaces; senior salaries; Constitution; pay multiple and fraud.

## FINANCIAL PROCEDURE NOTE C: CONTROL OF RESOURCES

### C.1 INTRODUCTION

C.1.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating resources required. The use of resources must be properly controlled.

### C.2 INTERNAL CONTROLS

C.2.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

C.2.2 The activities of the Council must be controlled. The system of internal controls is established in order to provide measurable achievement of:

- (i) efficient and effective operations
- (ii) reliable financial information and reporting
- (iii) compliance with laws and regulations
- (iv) risk management

#### C.2.3 Key Controls

The key controls for internal control systems are:

- (i) key controls should be reviewed on a regular basis and the Council should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively
- (ii) managerial control systems. These include defining policies, planning and setting objectives, monitoring financial and other performance data and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
- (iii) financial and operational control systems. These include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems
- (iv) an effective internal audit function that is properly resourced. The audit function must operate in accordance with the principles contained in the Public Sector Internal Audit Standards, the Auditing Practices Board's auditing guidelines Guidance for Internal Auditors, CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom and with any other statutory obligations and regulations.

#### C.2.4 Responsibilities of the Internal Audit Manager

- (i) to advise on effective systems of internal control
- (ii) to assist the Council to put in place an appropriate control environment and effective internal controls, which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations

**C.2.5 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

It is the responsibility of Strategic Directors and Executive Heads of Service to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

- (i) to manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks
- (ii) to review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the Audit and Business Improvement Manager. Strategic Directors and Executive Heads of Service will also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication
- (iii) to ensure staff have a clear understanding of the consequences of lack of control.

**C.3 AUDIT REQUIREMENTS**

C.3.1 The latest Accounts and Audit Regulations require every local authority to maintain an adequate and effective internal audit.

C.3.2 External auditors are appointed by statute to each local authority. The basic duties of the external auditor are governed by Section 15 of the Local Government Finance Act 1982, as amended by Section 5 of the Audit Commission Act 1998.

C.3.3 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, which have statutory rights of access.

**Internal Audit**

C.3.4 The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. Regulation 6 of the latest Accounts and Audit Regulations, more specifically requires that a “relevant body shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with proper internal audit practices ...”.

C.3.5 Internal Audit is an independent and objective appraisal function established by the Council for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

**C.3.6 Key Controls**

The key controls for internal audit are:

- (i) that it is independent in its planning and operation



- (ii) the Internal Audit Manager has direct access to the Joint Chief Executive, all levels of management and directly to councillors
- (iii) the internal auditors comply with the Auditing Practices Board's guideline Guidance for Internal Auditors, as interpreted by CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom and the Public Sector Internal Audit Standards

**C.3.7 Responsibilities of the Internal Audit Manager**

To ensure that internal auditors have the authority to:

- (i) access Council premises at reasonable times
- (ii) access all assets, records, documents, correspondence and control systems
- (iii) receive any information and explanation considered necessary concerning any matter under consideration
- (iv) require any employee of the Council to account for cash, stores or any other asset under his or her control
- (v) access records belonging to third parties, such as contractors, when required
- (vi) directly access the Joint Chief Executive and the Executive.

**C.3.8 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) to ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work
- (ii) to ensure that auditors are provided with any information and explanations that they seek in the course of their work
- (iii) to consider and respond promptly to recommendations in audit reports.
- (iv) to ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion
- (v) to notify the CFO immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Strategic Director or Executive Head of Service should take all necessary steps in consultation with the Audit and Business Improvement Manager to prevent further loss and to secure records and documentation against removal or alteration
- (vi) to ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Audit and Business Improvement Manager prior to implementation.

**External Audit**

**C.3.9 Key Controls**

External auditors are currently appointed by the Audit Commission for a prescribed period of years. On closure of the Audit Commission on 31 March 2015, new arrangements as prescribed by the Local Audit and Accountability Act 2014 came into force.

**C.3.10 Responsibilities of the Chief Finance Officer**

- (i) to ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work
- (ii) to ensure there is effective liaison between external and internal audit
- (iii) to work with the external auditor and advise Council, Executive, Strategic Directors and Executive Heads of Service on their responsibilities in relation to external audit.

**C.3.11 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) 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
- (ii) to ensure that all records and systems are up-to-date and available for inspection

**C.4 PREVENTING FRAUD AND CORRUPTION**

C.4.1 The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.

C.4.2 The Council's expectation of propriety and accountability is that councillors and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

C.4.3 The Council also expects that individuals and organisations (for example suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

**C.4.4 Key Controls**

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

- (i) all councillors and staff act with integrity and lead by example
- (ii) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt
- (iii) high standards of conduct are promoted amongst councillors and officers by the Corporate Governance and Standards Committee
- (iv) the Council should maintain appropriate registers of interests and of gifts and hospitality for both councillors and officers, in accordance with the provisions of the Codes of Conduct in Part 5 of the Council's Constitution
- (v) whistle-blowing procedures are in place and operate effectively
- (vi) legislation including the Public Interest Disclosure Act 1998 is adhered to.
- (vii) maintain a written anti-money laundering policy

**C.4.5 Responsibilities of the Chief Finance Officer**

- (i) to maintain adequate and effective internal control arrangements
- (ii) to ensure that all suspected irregularities are reported to the Internal Audit Manager, Monitoring Officer (MO) and Executive.

**C.4.6 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) to ensure that all suspected irregularities are reported to the Internal Audit Manager
- (ii) to instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour
- (iii) to ensure that where financial impropriety is discovered, the CFO and Internal Audit Manager are informed and, where evidence exists to believe that a criminal offence may have been committed, to determine in consultation with the CFO and Internal Audit Manager whether the Police should be called in to investigate
- (iv) to maintain a register of gifts and hospitality received by officers from his or her service portfolio.

**C.5 ASSET SECURITY**

C.5.1 The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

**C.5.2 Key Controls**

**Key controls for General Fund land and buildings are that:**

- (i) no proposed transactions, including the leasing, disposal or acquisition of land and buildings, or property related agreements of any kind with third parties shall be entered into without first consulting the Joint Strategic Director: Place and CFO. This consultation must take place prior to any discussion or correspondence with third parties that commits or could be construed as implying commitment by the Council to a course of action or to any specific terms and conditions. All proposed transactions should have regard to Section C6, Asset Disposal, in seeking approval for leasing out land and buildings or entering into property related agreements
- (ii) no lessees or other prospective occupiers of Council land or buildings are allowed to take possession or enter the land or building until a lease or agreement in a form approved by the Joint Strategic Director: Place in consultation with the CFO, Lead Specialist – Legal, and lead councillor with responsibility for finance, has been established as appropriate and accounting arrangements have been properly determined
- (iii) no leases in of land or buildings to the Council shall be entered into until a lease agreement in a form approved by the Joint Strategic Director: Place in consultation with the CFO, Lead Specialist - Legal, and lead councillor with responsibility for finance, has been established as appropriate, a business case has been evaluated and accounting arrangements have been properly determined. Before submitting proposals to lease in land or a building services should first check with the Executive Head of Assets and Property that there is no existing suitable council owned accommodation available
- (iv) any use of property by a service other than for direct service delivery must be supported by documentation identifying terms, responsibilities and duration of

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- use. The Joint Strategic Director: Place will be responsible for all negotiations in respect of land and buildings, subject to consultation with the relevant Strategic Directors or Executive Heads of Service, Lead Specialist -Legal, CFO, and lead councillor with responsibility for finance
- (v) Subject to the over-riding requirement of public procurement legislation, the Council's Procurement Procedure Rules shall not apply to the acquisition of land and buildings unless the Joint Strategic Director: Place or Lead Specialist - Legal consider that tenders or quotations would be appropriate.
  - (vi) land and building assets are only disposed of in consultation with the Joint Strategic Director: Place, CFO, Lead Specialist - Legal, and the lead councillor with responsibility for finance
  - (vii) subject to appropriate budget availability having been approved, additions of land and buildings are subject to the following approvals:
    - asset purchases of up to £1 million to be approved by the Joint Strategic Director: Place, in consultation with the lead councillor with responsibility for assets
    - asset purchases between £1 million and £12 million to be approved by the CFO in consultation with the Joint Chief Executive, Leader of the Council and the lead councillor with responsibility for finance
    - the Executive to approve asset purchases above £12 million
    - purchases of investment land and buildings must meet all the scoring and financial criteria outlined in the Council's asset investment strategy. Purchases of investment land and buildings where the criteria set out in the Council's asset investment strategy are not met require the approval of the Executive
    - purchases of non-investment land and buildings must be in line with the business case approved for the capital programme. Purchases not meeting the business case approved for the capital programme require the approval of the Executive.
  - (viii) any purchase of land and buildings where no budget is available must be authorised by the Executive and a supplementary estimate obtained
  - (ix) the Lead Specialist - Legal shall be responsible for the custody of all title deeds on behalf of the Council

### **Key controls for land and buildings held within the Housing Revenue Account (HRA) are that:**

- (i) no disposals or acquisitions of land and buildings shall be entered into without first consulting the Joint Strategic Director: Community Wellbeing. This consultation must take place prior to any discussion or correspondence with third parties that commits or could be construed as implying commitment by the Council to a course of action or to any specific terms and conditions. All proposed transactions should have regard to Section C6, Asset Disposal
- (ii) no leases in of HRA land or buildings to the Council shall be entered into until a lease agreement in a form approved by the Joint Strategic Director: Community Wellbeing in consultation with the CFO, Lead Specialist - Legal, and lead councillor with responsibility for housing, has been established as appropriate, a business case has been evaluated and accounting arrangements have been properly determined
- (iii) any use of HRA property by a service other than the HRA must be supported by documentation identifying terms, responsibilities and duration of use

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- (iv) land and building assets are only disposed of in consultation with the Joint Strategic Director: Community Wellbeing, CFO, Lead Specialist - Legal, and the lead councillor with responsibility for housing
- (v) subject to the over-riding requirement of public procurement legislation, the Council's Procurement Procedure Rules shall not apply to the acquisition of HRA land and buildings unless the Joint Strategic Director: Community Wellbeing and Lead Specialist - Legal consider that tenders or quotations would be appropriate.
- (vi) subject to appropriate budget availability having been approved, additions of land and buildings to the HRA are subject to the following approvals:
  - purchases up to £12 million are approved by the CFO in consultation with the Joint Strategic Director: Community Wellbeing, Leader of the Council, lead councillor with responsibility for housing and lead councillor with responsibility for finance
  - purchases of HRA land and buildings above £12 million require the approval of the Executive
- (vii) the Lead Specialist - Legal shall be responsible for the custody of all title deeds on behalf of the Council

### Key Controls – Plant, Vehicles and Equipment

The key control for the security of resources such as fixed plant machinery, equipment, software and information are:

- (i) resources are used only for the purposes of the Council and are properly accounted for
- (ii) resources are available for use when required
- (iii) resources no longer required are disposed of in accordance with the law and the asset disposal section of the financial procedure rules so as to maximise benefits to the Council
- (iv) an asset register is maintained for the Council. Assets are recorded when they are acquired and this record is modified as changes occur with respect to the location and condition of the asset with the whole register fully updated at year end
- (v) all staff are aware of their responsibilities with regard to safeguarding the Council's assets and information, including the requirements of the Data Protection Act and software copyright legislation
- (vi) all staff are aware of their responsibilities with regard to safeguarding the security of the Council's computer systems, including maintaining restricted access to the information held on them and compliance with the Council's computer and internet security policies

### C.5.3 Responsibilities of the Chief Finance Officer

- (i) to approve purchases of land and buildings between £1 million and £12 million, in consultation with the Joint Chief Executive, Leader of the Council and the lead councillor with responsibility for finance where budget provision exists on the approved capital programme
- (ii) to approve purchases of land and buildings for the HRA up to £12 million, in consultation with the Joint Strategic Director: Community Wellbeing, Leader of the Council, the lead councillor with responsibility for housing and the lead councillor with responsibility for finance where budget provision exists on the approved housing capital programme
- (iii) to receive the information required for accounting, costing and financial records from each Strategic Director and Executive Head of Service

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- (iv) to ensure that assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC)
- (v) to advise, where appropriate, that a Strategic Director or Executive Head of Service should arrange for a suitable programme of continuous stock-checking to be undertaken throughout each financial year
- (vi) to advise on the financial evaluation and accounting treatment of leases
- (vii) to advise on the tax and accounting treatment of leases, asset acquisitions and disposals
- (viii) to ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £15,000 (in the case of land and buildings £20,000).
- (ix) to ensure the function of the asset register is to provide the Council with information about fixed assets so that they are:
  - (a) safeguarded
  - (b) used efficiently and effectively
  - (c) adequately maintained

### C.5.4 Responsibilities of the Joint Strategic Director: Community Wellbeing

- (i) Subject to consultation with the relevant Strategic Director, Executive Head of Service, Lead Specialist - Legal, CFO and lead councillor with responsibility for finance, to accept terms for the grant, renewal, review, and variation of leases.
- (ii) To authorise in consultation with the lead councillor with responsibility for assets, purchases of land and buildings up to £1 million.
- (iii) To maintain a database in accordance with good practice for all non-housing land and building assets currently owned or used by the Council.
- (iv) To authorise in consultation with the CFO, Leader of the Council, lead councillor with responsibility for housing and lead councillor with responsibility for finance, purchases of HRA land and buildings up to £12 million.
- (v) To maintain a database in accordance with good practice for all HRA property assets currently owned or used by the Council.

### C.5.5 Responsibilities of the Lead Specialist - ICT

- (i) To maintain a separate inventory of all computer hardware, software and telephony equipment. All computer hardware, software and telephony equipment should be returned to the ICT Service for disposal or re-use.
- (ii) To maintain a software library to control all of the Council's software assets and ensure compliance with contracts and licence agreements.
- (iii) To approve all software before it is used on Council computer systems.

### C.5.6 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

#### Plant, Vehicles and Equipment

- (i) to maintain a database in a form approved by the CFO, of, plant and machinery and moveable assets currently owned or used by services for which they are responsible
- (ii) to ensure that no Council asset is subject to personal use by an employee without proper authority

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- (iii) to ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council
- (iv) To ensure that the services for which they are responsible maintain a register of moveable assets in accordance with arrangements defined by the CFO
- (v) to ensure that assets are identified, their location recorded and that they are appropriately marked and insured
- (vi) to consult the Joint Chief Executive in any case where security is thought to be defective or where it is considered that special security arrangements may be needed
- (vii) to ensure cash holdings on premises are kept to a minimum
- (viii) to ensure contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place
- (ix) to ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Joint Chief Executive as soon as possible.
- (x) to record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless following consultation with the CFO, the Executive agrees otherwise.
- (xi) to arrange for the valuation of assets for accounting purposes to meet requirements specified by the CFO.
- (xii) to ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged or may possess some intrinsic value and its disclosure or loss could result in a cost to the Council in some way.

### **Land and building assets:**

- (i) to ensure they consult with the Joint Strategic Director: Place and CFO on any proposed transactions, including the leasing, disposal or acquisition of land and buildings, or property related agreements of any kind with third parties. This consultation must take place prior to any discussion or correspondence with third parties that commits or could be construed as implying commitment by the Council to a course of action or to any specific terms and conditions. Strategic Directors and Executive Heads of Service should have regard to Section C6, Asset Disposal, in seeking approval for leasing out land and buildings or entering into property related agreements.
- (ii) to ensure that lessees and other prospective occupiers of Council land or buildings are not allowed to take possession or enter the land or buildings until a lease or agreement, in a form approved by the Joint Strategic Director: Place in consultation with the CFO and lead councillor with responsibility for finance, has been established as appropriate and accounting arrangements have been properly determined.
- (iii) to ensure that the Council does not enter into any leases to lease in land or buildings to the Council until a lease agreement in a form approved by the Joint Strategic Director: Place in consultation with the CFO, Lead Specialist - Legal, and lead councillor with responsibility for finance, has been established as appropriate, a business case has been evaluated and accounting arrangements have been properly determined. Strategic Directors and Executive Heads of Service should check with the Executive Head of Assets and Property that there is no existing suitable council owned accommodation available before submitting proposals to lease in a property
- (iv) to ensure that any use of property by a service other than for direct service delivery is supported by documentation identifying terms, responsibilities and

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duration of use and that the Executive Head of Assets and Property shall negotiate in respect of all land and building transactions on behalf of the Strategic Director or Executive Head of Service, and agree terms on behalf of the Council

- (v) to ensure the proper security of all buildings and other assets under their control
- (vi) to ensure that where land or buildings are surplus to services' requirements, a recommendation for sale is the subject of a joint report by the Strategic Director or Executive Head of Service and Joint Strategic Director: Place, in consultation with the Lead Specialist - Legal, and CFO.
- (vii) to ensure that all title deeds are passed to the Lead Specialist - Legal, who is responsible for custody of all title deeds.

### Inventories

- (i) to maintain inventories in accordance with policies recommended by the Joint Chief Executive and approved by the Executive with a replacement value in excess of £500, including all electrical and photographic equipment regardless of its cost. An annual check of the foregoing shall be undertaken by the service concerned and action shall be taken in respect of any surpluses or deficiencies not noted on the inventory. All surpluses and deficiencies above the value of £500 shall be notified to the CFO
- (ii) to carry out an annual check, at year-end, of all items on the inventory in order to verify location, review condition, and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council
- (iii) to make sure that assets are only used in the course of the Council's business, unless the Strategic Director or Executive Head of Service concerned has given permission otherwise.

### Stocks and Stores

- (i) to make arrangements for the care and custody of stocks and stores within the services for which they are responsible
- (ii) to ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion
- (iii) to investigate and remove from the Council's records (i.e. write-off) discrepancies, as necessary, or to obtain Executive approval if they are in excess of 3% of the value of stores held as at the start of that financial year
- (iv) to authorise the disposal or write-off of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction (including internet auction) unless, following consultation with the Joint Chief Executive, the Executive decides otherwise in a particular case
- (v) to seek Executive approval to the write-off of redundant stocks and equipment in excess of 3% of the value of items held at the start of that financial year
- (vi) each Strategic Director and Executive Head of Service responsible for stocks and stores shall produce to the CFO a signed certificate showing the value thereof as at 31 March each year.



**C.6 ASSET DISPOSAL**

C.6.1 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and rules of the Council.

**C.6.2 Key Controls – Plant, Vehicles and Equipment**

- (i) assets for disposal are identified and are disposed of at the most appropriate time and only when it is in the best interests of the Council, and the best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value (other than land or buildings), disposal should be by competitive tender, public auction or through internet auction sites
- (ii) procedures protect staff involved in the disposal from accusations of personal gain.

**Key controls - land and buildings:**

- (i) the disposal of land and building assets must be undertaken in accordance with the provisions set out in the Local Government Act 1972 including the obligation to receive the best consideration reasonably obtainable in accordance with s123 Local Government Act 1972.
- (ii) all disposals shall be at market value unless otherwise agreed by the CFO in consultation with the Leader or appropriate lead councillor. Except where a general consent exists, specific consent shall be obtained from the Secretary of State prior to an interest in land or property being disposed of for a price less than the market value (i.e. at under-value). Such disposals must follow the procedure outlined in (c) below, including a statement of estimated market value and that the under-value price still achieves best consideration reasonably obtainable
- (iii) where land or buildings are surplus to services' requirements, a recommendation for sale will be the subject of a joint report by the Strategic Director or Executive Head of Service and Joint Strategic Director: Place in consultation with the Lead Specialist - Legal, and CFO or the Executive (as appropriate). The report shall set out the relevant information, such as the planning position, potential use, legal issues, current and proposed development restrictions, estimated market value and confirmation that best consideration is achievable
- (iv) the delegated powers of the Joint Strategic Director: Place, in consultation with the Lead Specialist - Legal, appropriate ward councillor(s) and appropriate lead councillor includes authority to sell the land and buildings up to 0.2 hectares in area, as set out in Part 3 of this Constitution.
- (v) the delegated powers of the Joint Strategic Director: Place, in consultation with the Lead Specialist - Legal, and CFO include authority to sell small pieces of land adjoining former Council-owned properties to the owners, as set out in Part 3 of this Constitution.
- (vi) any disposal not delegated to the Joint Strategic Director: Place must be authorised by the Executive.
- (vii) approval for leasing out land and buildings or entering into property related agreements that constitutes a disposal of land and buildings under proper accounting requirements will be considered an asset disposal and the key controls and responsibilities provided under Section C6 will apply

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- (viii) for all disposals, a Chartered Surveyor must provide a valuation. If the likely value exceeds £100,000, this must be supplemented by a second valuation by an external Chartered Surveyor.
- (ix) subject to the over-riding requirement of public procurement legislation, the Council's Procurement Procedure Rules shall not apply to the disposal of land and buildings unless the Joint Strategic Director: Place and Lead Specialist - Legal consider that tenders or quotations would be appropriate. Where quotations or tenders are not required, this will be subject to the agreement of the Joint Chief Executive and consultation with the Leader or appropriate lead councillor in relation to tenders.

In the event of disposal by formal tender, the tender process must be conducted in a fair, open and transparent manner following the principles set out in the Procurement Procedure Rules. The contract for the disposal must comply with relevant statutory provisions and be approved by the Joint Strategic Director: Place and Lead Specialist - Legal.

### C.6.3 Responsibilities of the Chief Finance Officer

- (i) to issue guidelines representing best practice for disposal of assets.
- (ii) to ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's financial records and to include the sale proceeds if appropriate
- (iii) to update the asset register with the accounting impact of the disposal of assets
- (iv) to authorise in consultation with the Strategic Director or Executive Head of Service, Lead Specialist - Legal, and lead councillor with responsibility for finance, the disposal of land and buildings up to 0.2 hectares in area subject to the purchaser paying all the Council's costs in relation to the disposal.

### C.6.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment or to use public auctions (including internet auction sites) to obtain the best consideration possible for the asset
- (ii) to ensure that income received for the disposal of an asset is properly banked and coded correctly to capital if greater than £10,000, or otherwise to revenue.
- (iii) to inform CFO of disposals, so that the asset register can be updated.

## C.7 INSURANCE

### C.7.1 Key Controls

C.7.2 No employee shall verbally admit liability, take any action or enter into any correspondence admitting liability on behalf of the Council.

C.7.3 No payments may be made in lieu of or in advance to third parties for damage to third party property where an insurance claim could be made, except as agreed with the Joint Chief Executive and the Council's insurer.

C.7.4 The key controls for insurance are:

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- (i) procedures are in place to ensure that the Council has adequate insurance cover
- (ii) to keep appropriate records containing particulars of all insurances effected by the Council and to give Strategic Directors and Executive Heads of Service all necessary information as required
- (iii) no payments may be made in lieu of or in advance to third parties for damage to third party property where an insurance claim could be made, except as agreed with the Joint Chief Executive and the Council's insurer.

### C.7.5 Responsibilities of the Joint Chief Executive

- (i) to effect all insurance cover and negotiate all claims in consultation with the Council's insurers and appointed brokers, where necessary
- (ii) to review the Council's insurance arrangements at least every five years, and its level of risk cover no less frequently than annually
- (iii) to review all insurances and policy excess levels in consultation with Strategic Directors and Executive Heads of Service, as appropriate, and at such periods as he may consider necessary
- (iv) to keep appropriate records containing particulars of all insurances effected by the Council and to give other Strategic Directors and Executive Heads of Service all necessary information as required
- (v) to make payment on behalf of the Council's insurers up to £2,000, or to any limit as agreed with insurers in respect of any single claim under the small claims procedure, and to make ex-gratia payments up to the sum of £250 for any single claim
- (vi) to ensure employees of the Council shall be included in a suitable fidelity guarantee policy
- (vii) to periodically inspect insurance documents to ensure that adequate insurance cover is in place in respect of all properties in mortgage to the Council, including those where the mortgagor has exercised the option to provide such cover with a company other than the Council's own insurers
- (viii) to periodically inspect insurance documents to ensure that adequate insurance cover is in place and maintained in respect of vehicles, which are the subject of car loan agreements.

### C.7.6 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) to ensure that the activities of their staff are covered by such professional indemnity insurance as the Strategic Director or Executive Head of Service considers appropriate. Any such insurances shall be arranged in consultation with the Joint Chief Executive
- (ii) to keep records of all plant, vehicles, furniture and equipment under their control and such records shall be available for inspection by the Executive Head of Finance.
- (iii) to give prompt notification to the Joint Chief Executive of all new risks, properties, vehicles or mechanical plant which require to be insured, of any alterations affecting existing insurances and of any special risks with regard to contracts, for example. pile driving
- (iv) to promptly notify and provide a written report to the Joint Chief Executive in respect of any loss, liability, damage, motor accident or compensation request or any event likely to lead to a claim

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- (v) to ensure that any formal letters of claim received in accordance with the Civil Justice procedures shall, upon receipt, be immediately forwarded to the Joint Chief Executive unanswered. Strategic Directors and Executive Heads of Service shall ensure that any such incident is fully investigated and that the service for which they are responsible co-operates fully with the insurance officer and with the Council's insurers in meeting court deadlines
- (vi) any incident, which could potentially lead to a claim, should be investigated at the time of the incident occurring, rather than following receipt of an insurance claim, in order to comply with Ministry of Justice rules.
- (vii) to be responsible in conjunction with the Joint Chief Executive, for implementing any insurance company risk management requirement where the failure to implement would lead to insurers reducing or withdrawing insurance cover
- (viii) to consult the Joint Chief Executive and Lead Specialist - Legal in respect of the terms of any indemnity that the Council is requested to give
- (ix) to provide to the Joint Chief Executive, on request, details of insurance cover effected by organisations who own or lease buildings on Council held land or enter into contracts to use Council property or facilities
- (x) to examine the insurance cover in the case of any contract for which the Strategic Director or Executive Head of Service is responsible, where the cover is to be furnished by the contractor in respect of any act or default, and to be satisfied as to the insurance company, extent, and nature of coverage before approving it.

### C.8 TREASURY MANAGEMENT

C.8.1 The Council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.

C.8.2 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 policy statement is proposed to Council by the lead councillor with responsibility for finance as part of the annual strategy report. The CFO has delegated responsibility for implementing and monitoring the statement.

C.8.3 All money in the hands of the Council is controlled by the officer designated for the purposes of Section 151 of the Local Government Act 1972, referred to in these Rules as the CFO.

#### C.8.4 Key Controls

That the Council's borrowings and investments comply with the CIPFA Code of Practice on Treasury Management, CIPFA's Prudential Code for capital finance, and with the Council's Treasury Management Policy Statement. As recommended to all public services by CIPFA, the Council has adopted the following four clauses:

- (i) Clause 1 – Accordingly, we will create and maintain, as the cornerstones for effective treasury management:
  - a Treasury Management Policy Statement stating the policies, objectives and approach to risk management of our treasury management activities.
  - suitable Treasury Management Practices (TMPs), setting out the manner in which we will seek to achieve those policies and objectives, and prescribing how we will manage and control those activities.

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- the content of the policy statement and TMPs will follow the recommendations contained in sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of the Council. Such amendments will not result in the Council materially deviating from the Code's key principles
- (ii) Clause 2 - Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in the TMPs
- (iii) Clause 3 - Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Corporate Governance and Standards Committee, and for the execution and administration of treasury management decisions to the CFO, who will act in accordance with the organisation's policy statement and TMPs, and if they are a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management."
- (iv) Clause 4 – Council nominates the Corporate Governance and Standards Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

This Council adopts the key recommendations of CIPFA's Treasury Management in the Public Services: Code of Practice ("the Code"):

- (i) we have in place formal and comprehensive objectives, policies and practices, strategies and reporting arrangements for the effective management and control of our treasury management activities
- (ii) our policies and practices make clear that the effective management of risk, having regard to return, is a prime objective of the treasury management activities
- (iii) we acknowledge that the pursuit of best value in treasury management, and the use of suitable performance measures, are valid and important tools for responsible organisations to employ in support of their business and service objectives; and that within the context of effective risk management, our treasury management policies and practices should reflect this
- (iv) in order to achieve the above:
  - we adopt the four clauses of the Code;
  - we adopt a Treasury Management Policy Statement as recommended; and
  - we follow the recommendations concerning the creation of TMPs.

### C.9 TREASURY MANAGEMENT, BANKING, INVESTMENTS AND BORROWING

C.9.1 Many millions of pounds pass through the Council's books each year. This has led to the establishment of codes of practice. These aim to provide assurances that the Council's money is properly managed in a way that balances risk with return, but with the over-riding consideration being given to the security of the Council's principal sum invested.

#### C.9.2 Key Controls

- (i) that the Council's borrowings and investments comply with the CIPFA Code of Practice on Treasury Management and with the Council's Treasury Policy Statement

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- (ii) that the Council develops and maintains TMPs in accordance with the CIPFA code and undertakes its treasury management activity in accordance with the TMPs
- (iii) no interests shall be acquired in any Company, Joint Venture or other enterprise without the approval of the Executive, following consultation with the CFO in accordance with Section F of the Finance Procedure Rules
- (iv) all the Council's Banking arrangements shall be made by or under arrangements approved by the CFO, who shall operate such banking accounts, including National Giro Accounts, as they may consider necessary, and in accordance with the relevant bank mandates. No other accounts shall be opened without the agreement of CFO
- (v) the TMPs set out which officers of the Council are authorised to sign cheques, BACS & CHAPS payment requests on behalf of the Council.

### C.9.3 Responsibilities of the Chief Finance Officer

- (i) to report to the Corporate Governance and Standards Committee and the Executive a proposed Treasury Management Strategy and Prudential Indicators for the coming financial year before the start of each financial year, who will recommend the proposed strategy to Council
- (ii) all decisions on borrowing, investment or financing shall be delegated to the CFO, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities
- (iii) to regularly report on the Council's treasury management activities to the Corporate Governance and Standards Committee during the course of the year
- (iv) to report an annual report on the Council's treasury management activities to the Corporate Governance and Standards Committee and Executive, who will recommend the annual report to Council
- (v) to operate bank accounts as are considered necessary – opening or closing any bank account, giro account or credit card account shall require the approval of the CFO
- (vi) to open and operate investment accounts as are considered necessary
- (vii) to ensure that all investments of money are made in the name of the Council or in the name of nominees approved by the Council
- (viii) to effect all borrowings in the name of the Council
- (ix) to act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council
- (x) manage CHAPS transfer arrangements on behalf of the Council.
- (xi) ensure that all cheque stationery drawn on the Council's main bank account shall be ordered only on the authority of the CFO, who shall ensure that proper arrangements are in place for its safekeeping
- (xii) ensure that cheques drawn on the Council's main banking accounts shall bear the facsimile signature of the CFO, or be signed personally by them, or one of their authorised Officers.
- (xiii) ensure that where the value of a cheque, drawn on the Council's main bank account, exceeds £50,000, it shall be countersigned by one of the authorised Officers
- (xiv) manage BACS funds transfer arrangements on behalf of the Council.

**C.9.5 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) to ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in the custody of the Lead Specialist - Legal.
- (ii) to follow the instructions on banking issued by the CFO.
- (iii) ensure that at least two signatories shall sign cheques drawn on any account, other than the Council's main account. Each Strategic Director or Executive Head of Service shall provide the CFO with the names of all signatories to the account, together with specimen signatures and details of the limits of their authorisation and position within the organisation, along with details of the account.

**C.10. LOANS, LEASES, AND GUARANTEES**

No lending or leasing arrangements, including hire purchase or similar agreements, or provision of loan or other financial guarantees shall be entered into without first consulting the CFO, and in addition, in relation to land and buildings, the Executive Head of Assets and Property. Where arrangements or guarantees exceed an estimated whole life value of £1 million, the approval of the Executive should be sought.

Leasing arrangements are defined as:

- (i) agreements that have the formal status of a lease, whereby a lessor conveys the right to use an asset for an agreed period of time under a lease contract to a lessee in return for a payment or a series of payments
- (ii) agreements that do not have the legal form of lease but convey the right to use an asset in return for payments (embedded lease) or example an IT or outsourcing contract

Loans to other organisations by the Council shall be charged at Market Rates unless otherwise directed by the CFO in consultation with the relevant Strategic Director or Executive Head of Service. If loans are provided at below market rates, the difference in interest income will be paid by the service.

**C.10.1 Responsibilities of the Chief Finance Officer**

Where leasing arrangements are provided to determine whether or not:

- (i) any leasing arrangement is deemed to be an operating or financing lease for accounting purposes and therefore whether it should be treated as revenue or capital expenditure
- (ii) the transaction will count against the Council's borrowing limit and prudential indicators
- (iii) there are any implications for VAT or other taxes.

To aid evaluation of the arrangement, the contract agreement should split the payment between those elements applicable for the asset and those elements applicable for the service and in the case of leases of land and buildings, the elements relating to the land and the element relating to the buildings.

**C.10.2 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders:**

- (i) to provide information to the CFO for inclusion in the Lease register and the Council's Statement of Accounts;
- (ii) advise the CFO of any transactions or proposed actions that may impact on the Council's investment policy or funds management
- (iii) to ensure that loan arrangements are properly constituted by formal agreement in consultation with the CFO and Lead Specialist - Legal.

**C.11 Service Concession Arrangements**

Where a contract is proposed which includes the use of a specific asset or conveys the right to use a specific asset as part of the arrangement, the contract shall be treated as an embedded lease. Contracts that convey to the operator the right to provide services that give the public access to major economic and social facilities and include the use of particular assets under which the Council controls the services provided and any residual interest in the asset should be treated as a Service Concession Arrangement.

Such contracts are typically but not exclusively related to Private Finance Initiative or Public Private Partnership (PFI or PPP) arrangements, however some contracts that were not planned as PFI or PPP schemes could also be classified as Service Concession Arrangements (for example certain asset transfers where the Council retains a legal charge over the infrastructure). Strategic Directors and Executive Heads of Service should inform and consult the CFO and Lead Specialist - Legal where any such arrangements are proposed to enable a proper evaluation of the accounting treatment and legal implications of the arrangement before a contract is entered into.

**C.12. TRUST FUNDS AND FUNDS HELD FOR THIRD PARTIES**

**C12.1 Responsibilities of the Chief Finance Officer**

- (i) to arrange for all trust funds to be held, wherever possible, in the name of the Council. All officers acting as trustees, by virtue of their official position, shall deposit securities etc. relating to the trust with the CFO, unless the deed otherwise provides
- (ii) to arrange, where funds are held on behalf of third parties, for their secure administration, approval by the CFO, and to maintain written records of all transactions
- (iii) to ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust
- (v) to prepare accounts and returns for the trust as required by the Charities Commission

**C12.2 Responsibilities of Officers acting as Trustees**

- (i) to seek approval from both the Lead Specialist - Legal and the CFO prior to the setting up or formal involvement in negotiations to set up or enter into a trust fund
- (ii) to ensure all agreements and arrangements are properly documented
- (iii) to ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust



- (iv) to ensure that governance arrangements are in place including arrangements for exit if necessary
- (v) to ensure that risk management processes are in place to identify and assess all known risks
- (vi) to ensure that the trust fund has appropriate governance, financial systems and procedures in place to properly record and account for the income and expenditure, assets and liabilities of the trust fund as advised by the CFO
- (vii) to ensure adequate supporting records of the income, expenditure, assets and liabilities of the trust fund are held
- (viii) to ensure that the trust fund operates a financial year 1 April to 31 March and prepares its financial statements in accordance with the timetable set by the CFO

**C.13 PETTY CASH, IMPREST ACCOUNTS, PROCUREMENT AND CREDIT CARDS**

A petty cash account is where a service is given a petty cash allowance and manages small (petty) expenditure within the petty cash allowance. Examples of areas where this may occur is in community and/or day centres.

Imprest accounts are where a service is given a separate bank account to operate for small (petty) expenditure and income. The imprest bank account is linked to the Council's main bank account.

Credit cards are not normally issued to individual officers. The Council uses Government approved procurement cards rather than credit cards, which enables appropriate controls and electronic invoicing arrangements as well as provide automatic discounts on some purchases.

**C13.1 Key Controls:**

- (i) requests for new imprest accounts and petty cash accounts, or any changes to existing accounts must be agreed with the relevant Strategic Director and Executive Head of Service, before being forwarded to the CFO who shall provide these as considered appropriate, unless other statutory arrangements apply. The Strategic Director or Executive Head of Service shall ensure that there are three signatories to each imprest account and that any cheques shall be signed by any two of those signatories. The signatories shall be selected by the Strategic Director to ensure there is adequate control of the account without affecting the day-to-day operation of the service
- (ii) reimbursement of payments from imprest or petty cash accounts shall be made on receipt of a properly completed imprest or petty cash return, in a form approved by CFO. The return shall show the cost centres to be charged and the amounts relating to each cost centre. Payment will be limited to such items of expenditure as may be approved by the CFO. Vouchers supporting claims must be retained for audit purposes. No income received on behalf of the Council, may be paid into an imprest account without the approval of the CFO, subject to appropriate accounting procedures being in place. In all other cases, income must be banked or paid into one of the Council's bank accounts used for Income Collection (for example, the general or revenues receipts accounts). Where a Service receives income into an imprest account it shall issue a VAT receipt showing the rate and amount of VAT included in the receipt and shall record the income in full (net of VAT) before any expenses are met from it

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- (iii) in some circumstances, the CFO will issue a Procurement Card to Executive Heads of Service. The Procurement Card operates in a similar way to a Credit Card to allow purchases to be made quickly over the phone, in person or via the internet. Requests for new Procurement Cards or any changes to existing cards must be supported by a business case agreed with the relevant Strategic Director or Executive Head of Service, before being forwarded to the CFO.

### C.13.2 Responsibilities of the Lead Specialist - Finance

- (i) to provide employees of the Council with cash or bank imprest accounts to meet minor expenditure on behalf of the Council and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the maximum limits as determined for each account
- (ii) to determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- (iii) To reimburse imprest and petty cash account holders as often as necessary to restore the imprest and petty cash, but normally not more than monthly.
- (iv) to issue procurement cards to employees of the Council, on behalf of the CFO, to ensure minor purchases can be made quickly over the phone or internet, to maintain a record of all transactions made and to periodically review the usage, arrangements and provision of procurement cards to officers

### C.13.3 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

To ensure that employees operating an imprest, petty cash account or procurement card:

- (i) follow any policies or procedures established by the CFO for the control of imprest accounts and procurement cards
- (ii) obtain and retain vouchers to support each payment from the imprest account, petty cash account or procurement card. Where appropriate, an official receipted VAT invoice must be obtained
- (iii) make adequate arrangements for the safe custody of the imprest account, petty cash box or procurement card and that chequebooks relating to Imprest Accounts are kept secure
- (iv) produce upon demand by the CFO cash and all vouchers to the total value of the imprest or petty cash amount.
- (v) record transactions promptly
- (vi) reconcile and balance the imprest or petty cash account at least monthly; reconciliation sheets to be signed and retained by the imprest or petty cash holder
- (vii) provide the CFO with a certificate of the value of the account held at 31 March each year
- (viii) ensure that the imprest account, petty cash float or procurement card is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made

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- (ix) ensure that the imprest account, petty cash float or procurement card is never used for mileage allowances for travelling, lump sum payments or other taxable benefit which should be paid through Payroll
- (x) ensure that the imprest account, petty cash float or procurement card is never used for cash advances or loans to employees
- (xi) petty cash accounts are not used for payments exceeding £100, and imprest accounts and procurement cards are not used for payments exceeding £500. Procurement cards have their own individual limit, a schedule of which is maintained by the Lead Specialist - Finance on behalf of the CFO. Payments in excess of this to be requested by cheque or BACS from the council's payments system
- (xii) on leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest account, petty cash account or procurement card, an employee shall account to the CFO and the relevant Strategic Director for the amount advanced to them.

### **In specific relation to procurement cards:**

The Strategic Director, Executive Head of Service, or Service Leader shall ensure that:

- (i) nominated cardholders sign confirmation of receipt of the procurement card and acceptance of their conditions of usage
- (ii) the card is kept securely and only nominated cardholders use it
- (iii) any loss or misuse of the card is reported immediately to the Council's bank account provider and to the CFO at Millmead House
- (iv) card limits are not exceeded
- (v) the Card must not be used to circumvent Guildford Borough Council's Procurement procedure rules
- (vi) no loyalty rewards or other personal benefits are collected by the Card Holder
- (vii) the Cardholder is mindful of their duty in public office and under the Council's
- (viii) Code of Conduct and does not incur any expenditure on the card that could embarrass the Council or lead to any accusation of abuse
- (ix) breaches of the Conditions of Use and the Finance and Procurement
- (x) procedure rules will result in the card being withdrawn and disciplinary action being taken against officers
- (xi) expenditure made by procurement card is correctly coded within the General Ledger

## FINANCIAL PROCEDURE NOTE D: SYSTEMS AND PROCEDURES

### D.1 INTRODUCTION

- D.1.1 Sound systems and procedures are essential to an effective framework of accountability and control.
- D.1.2 Services have many systems and procedures relating to the control of the Council's assets, including purchasing, costing and management systems. Services are increasingly 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.
- D.1.3 The CFO has a professional responsibility to ensure that all the Council's financial systems are sound and should, therefore, be notified of any new developments or changes.

#### D.1.4 Key Controls

The key controls for systems and procedures are:

- (i) basic data exists to enable the Council's objectives, targets, budgets and plans to be formulated
- (ii) performance is communicated to the appropriate managers on an accurate, complete and timely basis
- (iii) early warning is provided of deviations from targets, plans and budgets that require management attention
- (iv) operating systems and procedures are secure.

#### D.1.5 Responsibilities of the Chief Finance Officer

- (i) responsibility for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Strategic Directors or Executive Heads of Service to the existing financial systems or the establishment of new systems must be approved by the CFO. However, Strategic Directors and Executive Heads of Service are responsible for the proper operation of financial processes in their own service areas.
- (ii) to arrange for the proper administration of the Council's financial affairs, including to:
  - issue advice, guidance and procedures for officers and others acting on the Council's behalf
  - determine the accounting systems, form of accounts and supporting financial records
  - establish arrangements for audit of the Council's financial affairs
  - approve any new financial systems to be introduced
  - approve any changes to be made to existing financial systems.

#### D.1.6 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders

- (i) any changes to agreed procedures by Strategic Directors and Executive Heads of Service to meet their own specific service needs should be agreed with the CFO

## PART 4 – FINANCIAL PROCEDURE RULES

- (ii) to ensure that their staff receive relevant financial training that has been approved by the CFO
- (iii) to ensure that accounting records are properly maintained and held securely.
- (iv) to ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the CFO
- (v) to notify the CFO promptly of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council. The CFO shall have the right to inspect any documents or other evidence in this respect, as may be required
- (vi) to ensure that all staff under their control who receive money on behalf of the Council are accountable for that money and that all records maintained in connection with that money are approved by the CFO, including an accurate and chronological account of all receipts and deposits either with the CFO or the Council's bankers
- (vii) to ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained
- (viii) to incorporate appropriate controls to ensure that, where relevant:
  - all input is genuine, complete, accurate, timely and not previously processed
  - all processing is carried out in an accurate, complete and timely manner
  - output from the system is complete, accurate and timely
- (ix) to ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice
- (x) to ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption
- (xi) to ensure that systems are documented and staff trained in operations
- (xii) to consult with the CFO before changing any existing system or introducing new systems
- (xiii) to establish a scheme of delegation identifying officers authorised to act upon the Strategic Director or Executive Head of Service's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority
- (xiv) to supply lists of authorised officers, with specimen signatures and delegated limits, to the CFO, together with any subsequent variations
- (xv) 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 off-site or at an alternative location within the building
- (xvi) to ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation
- (xvii) to ensure that relevant standards and guidelines for computer systems issued by the Lead Specialist - ICT are observed
- (xviii) to ensure that computer equipment, software and telephony equipment are protected from loss or damage and that any loss or damage is reported immediately to the Lead Specialist - ICT.
- (xix) to comply with the copyright, designs and patents legislation and, in particular, to ensure that:
  - only software legally acquired and installed by the Council is used on its computers
  - staff are aware of legislative provisions

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- ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Strategic Directors and Executive Heads of Service must ensure that staff are aware of their responsibilities under freedom of information legislation

### D.2 INCOME

#### D.2.1 INTRODUCTION

D.2.2 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash flow and also avoids the time and cost of administering debts.

#### D.2.3 Key Controls

The key controls for income are:

- (i) all income due to the Council is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed.
- (ii) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
- (iii) all money received by an employee or agent acting on behalf of the Council, is paid without delay to the Council's bank account and is properly recorded. The responsibility for cash collection should be separated from those officers that:
  - for identifying the amount due
  - for reconciling the amount due to the amount received
  - if not possible, then report to the CFO and Audit and Performance Manager (Head of Internal Audit)
- (iv) effective action is taken to pursue non-payment within defined timescales
- (v) formal approval for debt write-off is obtained
- (vi) appropriate write-off action is taken within defined timescales
- (vii) appropriate accounting adjustments are made following write-off action
- (viii) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule
- (ix) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process
- (x) set up and operation of a PayPal or World Pay account for the collection of income from specific website transactions within services shall require the approval of the CFO, who shall establish appropriate procedures for their operation. Where applicable, a Strategic Director or Executive Head of Service should nominate a separate PayPal administrator and certifying officer whose responsibility will entail reconciling the income received via the PayPal account to the Council's financial system.

#### D.2.4 Responsibilities of the Joint Strategic Director: Place and CFO

- (i) to agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.
- (ii) to satisfy themselves regarding the arrangements for the control of all receipt forms, books or tickets and other similar items

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- (iii) to ensure that any debts written-off are dealt with in accordance with established procedures and within approved authorisation limits. The limits for any individual debt are:
  - Principal Management Accountant up to £1,000
  - Lead Specialist – Revenues and Benefits, Lead Specialist - Finance or Joint Strategic Director: Place (as appropriate to the debt type) up to £5,000, any such action to be fully recorded
  - Joint Strategic Director: Place or CFO (as appropriate to debt type) up to £10,000, any such action to be fully recorded.
  - The lead councillor with responsibility for finance with the CFO or Joint Strategic Director: Place as appropriate to debt type up to £50,000
  - The Executive in excess of £50,000
- (iv) the Lead Specialist - Finance and Joint Strategic Director: Place shall be empowered to enter into arrangements with debtors to allow payments to be made in instalments, where this is considered the most appropriate action, to secure payment of the debt
- (v) where action to recover debts leads to action in the courts, the CFO shall have the authority to allow costs to the value included in the schedule of fees and charges for the year in question to be waived where this will encourage the payment of the full debt
- (vi) where recovery of debts leads to action in the courts, the Joint Strategic Director: Place and CFO shall have the authority to agree to the payment of a reduced amount in settlement where circumstances dictate.
- (vii) to ensure that appropriate accounting adjustments are made following write-off action
- (viii) in relation to business rates and council tax discretionary rate relief and council tax discount may be authorised by the Lead Specialist – Revenues and Benefits, in accordance with government guidance or Council policy. Business rates discretionary relief appeals shall be considered by the CFO. Council tax discretionary relief appeals shall be considered by the CFO, except in the case of flooding grants, which will be considered by the lead councillor with responsibility for finance.
- (ix) to set up and operate a PayPal account for the collection of income from specific website transactions within services as stated in key controls above

### D.2.5 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders:

- (i) to establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly in line with corporate policies. All new charges and changes to existing charges are to be approved by the Council on an annual basis. Changes to charges and introduction of new charges in year can be made by Strategic Directors and Executive Heads of Service in line with the scheme of delegation as long as they are within budget and in consultation with the CFO and appropriate lead councillor
- (ii) to separate the responsibility for identifying amounts due and the responsibility for collection as far as is practicable
- (iii) to establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly where the administration of debts is under his or her control
- (iv) to issue official receipts or to maintain other documentation for income collection
- (v) to ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded

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- (vi) to hold securely receipts, tickets and other records of income for the appropriate period
- (vii) to lock away all income to safeguard against loss or theft and to ensure the security of cash handling
- (viii) to ensure that income is paid fully and promptly into the appropriate Council bank account. Advice is to be sought from the CFO for the most appropriate banking method if necessary
- (ix) to ensure income is not used to cash personal cheque or other payments
- (x) to supply the CFO with details relating to work done, goods supplied, services rendered or other amounts due, to enable the CFO to record correctly the sums due to the Council and to ensure accounts are sent out promptly. To do this, Strategic Directors and Executive Heads of Service should use established performance management systems to monitor recovery of income, and flag up areas of concern to the CFO. Strategic Directors and Executive Heads of Service have a responsibility to assist the CFO 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. Cash can only be held on premises where their value falls within limits set by the Council's insurers
- (xi) to keep a record of every transfer of money between employees of the Council. The receiving officer must sign for the transfer and the transferor must retain a copy
- (xii) to ensure that any discrepancy revealed between the amount deposited and the amount shown as received by the collector is recorded and investigated. Adequate records should be maintained to enable the performance of individual staff responsible for collecting income to be monitored
- (xiii) to recommend to the CFO all debts to be written-off and to 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
- (xiv) to obtain the approval of the CFO when writing-off debts in excess of the approved limit, and the approval of the Executive where required.
- (xv) to notify the CFO of outstanding income relating to the previous financial year as soon as possible after 31 March in accordance with the timetable issued by the CFO
- (xvi) to request the CFO to set up a PayPal account for their service if required and to nominate a PayPal administrator
- (xvii) to maximise the Council's cash flow by collecting all income due as soon as possible. This should include taking payment in advance of providing a service where possible. Otherwise invoices to be raised as soon as possible after the provision of a service, and not later than 8 weeks afterwards, in accordance with VAT rules

### D.3 ORDERING AND PAYING FOR WORK, GOODS AND SERVICES

- D.3.1 Every officer and councillor has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council in accordance with appropriate codes of conduct.
- D.3.2 Official orders must be in a form approved by the CFO. Official orders must be issued for all work, goods or services to be supplied to the Council except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases,



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procurement card purchases, where other statutory arrangements apply or other exceptions specified by the CFO. At the appropriate time, as decided by the CFO, to use electronic ordering system to generate official order numbers.

D.3.3 Apart from petty cash, imprest accounts and procurement cards, the normal method of payment from the Council shall be by BACS and every effort should be made to obtain bank details and avoid cheque payments. The use of direct debit shall require the prior agreement of the CFO.

D.3.4 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.

### D.3.5 **Key Controls**

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

- (i) all goods and services are ordered only by appropriate persons and are correctly recorded
- (ii) all goods and services shall be ordered in accordance with the Council's Procurement Procedure Rules unless they are purchased from sources within the Council
- (iii) goods and services received are checked to ensure they are in accordance with the order. Goods should not be received by the person who placed the order
- (iv) payments are not made unless goods have been received by the Council to the correct price, quantity and quality standards
- (v) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
- (vi) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
- (vii) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected
- (viii) in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically
- (ix) where a service is already provided by an in-house unit (for example, Legal, HR, Finance), orders must be placed with this unit and shall not be placed externally without consultation with the Strategic Director or Executive Head of Service providing the service. Where a Council wide contract is in existence, all orders for goods and services available under these contracts must use these contracts, unless an alternative has been agreed with the CFO
- (x) any requirements for vehicles must be referred to the Fleet Management Service who shall place orders for purchase or leasing, contracting or redistribution of existing vehicles as appropriate, to satisfy the requirement and ensure the Council's vehicles strategy operates in the most efficient manner

### D.3.6 **Responsibilities of the Chief Finance Officer**

- (i) to ensure that all the Council's financial systems and procedures are sound and properly administered
- (ii) to approve any changes to existing financial systems and to approve any new systems before they are introduced

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- (iii) to approve the form of official orders and associated terms and conditions.
- (iv) to make payments from the Council's funds on the Strategic Director or Executive Head of Service's authorisation and that the expenditure has been duly incurred in accordance with these Financial Procedure Rules
- (v) 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
- (vi) to make payments to contractors on the certification of the appropriate Strategic Director or Executive Head of Service, which must include details of the value of work, retention money, amounts previously certified and amounts now certified
- (vii) to provide advice on making payments by the safest and most economical means
- (viii) to issue guidance with regard to the financial aspects of third-party contracts and the maintenance of the contracts register

### D.3.7 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders:

- (i) to ensure that unique, pre-numbered official orders are used for all goods and services, other than the exceptions specified in D.3.2
- (ii) to ensure that orders are only used for goods and services provided to the services for which they are responsible. Individuals must not use official orders to obtain goods or services for their private use
- (iii) to ensure that only those staff authorised by them sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority on the Council's intranet. The authoriser should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. If the supplier is not a limited company they must be satisfied that checks have been made with the payments team regarding self-employed status and any additional assurances required before the order can proceed. Best value principles should underpin the Council's approach to procurement. Value for money should always be achieved
- (iv) to ensure that goods and services are checked on receipt to verify that 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. Appropriate entries should then be made in inventories or stores records
- (v) 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 has not previously been paid;
  - that expenditure has been properly incurred and is within budget provision;
  - that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices;
  - correct accounting treatment of tax;
  - that the invoice is correctly coded;
  - that discounts have been taken where available;
  - that appropriate entries will be made in accounting records
- (vi) to ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice

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- (vii) to ensure that the service for which they are responsible maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers, together with specimen signatures and details of the limits of their authority, shall be forwarded to the CFO. The CFO will be informed of all amendments to the list as soon as possible after they are agreed
- (viii) to ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of these being rendered should be reported to the Audit and Performance Manager (Head of Internal Audit)
- (ix) to encourage suppliers of goods and services to receive payment by the most economical means for the Council. It is essential, however, that payments made by direct debit have the prior approval of the CFO, with invoices being forwarded to the CFO for coding and checking of VAT
- (x) to ensure that the service obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines issued by the CFO, which are in line with best value principles and contained in the Council's Procurement Procedure Rules
- (xi) to utilise the central purchasing procedures established by the CFO in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the Council's Procurement Procedure Rules
- (xii) to ensure that employees are aware of the code of conduct for staff included in the Council's Constitution
- (xiii) to ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the CFO, see section C.10
- (xiv) to notify the CFO of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the CFO and, in any case, no later than the date determined by the CFO
- (xv) with regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the CFO and Joint Chief Executive the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of sub-contractors' tax status
- (xvi) to notify the CFO immediately of any expenditure to be incurred because of statute/court order where there is no budgetary provision
- (xvii) to ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.
- (xviii) to ensure that any payments for compensation of loss, damages or injury shall be made in consultation with the Lead Specialist - Legal.

### D.4 PAYMENTS TO EMPLOYEES AND COUNCILLORS

#### D.4.1 INTRODUCTION

Staff costs are the largest item of expenditure for most Council services. It is, therefore, important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that councillors' allowances are authorised in accordance with the scheme adopted by the Council.

**D.4.2 Key Controls**

The key controls for payments to employees and councillors are:

- (i) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
  - starters
  - leavers
  - variations
  - enhancementsin addition, that payments are made on the basis of timesheets or claims.
- (ii) monthly reconciliation of payroll expenditure against approved budget and bank account
- (iii) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule
- (iv) that HM Revenue and Customs regulations are complied with

**D.4.3 Responsibilities of the Chief Finance Officer**

- (i) to arrange and control secure and reliable payment of salaries, wages, compensation, overtime or other emoluments to existing and former employees on the due date and payment of allowances to councillors in accordance with procedures prescribed by them
- (ii) to record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions
- (iii) to make arrangements for payment of all travel and subsistence claims or financial loss and other allowances
- (iv) to make arrangements for paying councillors' travel or other allowances upon receiving the prescribed form, duly completed and authorised
- (v) to provide advice and encouragement to secure payment of salaries and wages by the most economical means
- (vi) to ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis

**D.4.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) to ensure appointments are made in accordance with the Officer Employment Procedure Rules and approved establishments, grades and scale of pay, and that adequate budget provision is available
- (ii) to ensure that adequate and effective systems and procedures are operated so that:
  - payments are only authorised to bona fide employees
  - payments are only made where there is a valid entitlement
  - conditions and contracts of employment are correctly applied
- (iii) to send an up-to-date list of the names of officers authorised to sign records to the Executive Head of Finance, together with specimen signatures
- (iv) to ensure that payroll transactions are processed only through the payroll system. Strategic Directors and Executive Heads of Service should seek advice to the employment status of individuals employed on a self-employed, consultant, sub-contract or one-off appointment basis from Executive Head of Finance. HM Revenue and Customs applies a tight definition of employee status and, in cases of doubt, advice should be sought from the Executive Head of Finance

- (v) to certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Executive Head of Finance is informed where appropriate
- (vi) all payments will be made in accordance with policies and procedures established by the Executive Head of Finance
- (vii) to ensure that the Executive Head of Finance is notified of the details of any employee benefits in kind to enable full and complete reporting within the income tax self-assessment system
- (viii) to ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule

**D.4.5 Responsibilities of Councillors**

To submit claims for councillors' travel and subsistence allowances on a six-monthly basis and, in any event, by 12 April at the end of any financial year.

**D.5 TAXATION**

**D.5.1 INTRODUCTION**

D.5.2 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.

**D.5.3 Key Controls**

The key controls for taxation are:

- (i) budget managers are provided with relevant information and kept up-to-date on tax issues
- (ii) budget managers are instructed on required record keeping
- (iii) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
- (iv) records are maintained in accordance with instructions
- (v) returns are made to the appropriate authorities within the stipulated timescale

**D.5.4 Responsibilities of the Chief Finance Officer**

- (i) To advise Strategic Directors and Executive Heads of Service, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council
- (ii) to complete all HM Revenue and Customs returns regarding PAYE.
- (iii) to complete a monthly return of VAT inputs and outputs to HM Revenue and Customs
- (iv) to provide details to the HM Revenue and Customs regarding the construction industry tax deduction scheme
- (v) to maintain all records, accounts and claims as directed by the relevant VAT legislation
- (vi) to provide guidance to staff and monitor compliance with tax regulations on behalf of the Council

**D.5.5 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) to ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations
- (ii) to ensure that where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements
- (iii) to ensure that all persons employed by the Council are added to its payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency
- (iv) to record and notify the Executive Head of Finance of any taxable benefit or payment giving rise to the potential of a taxable benefit (e.g. award vouchers)
- (v) to follow the guidance on taxation issued by the CFO
- (vi) to ensure that the correct Stamp Duty Land Tax (SDLT) implication of any disposal or acquisition of property transactions are identified and discussed with the CFO

## FINANCIAL PROCEDURE NOTE E: EXTERNAL ARRANGEMENTS

### E.1 INTRODUCTION

E.1.1 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. Partnership arrangements are an increasingly significant feature of public service delivery. They are a response to the complex and multifaceted problems that face society, and which cannot be tackled effectively by any individual body working alone. They can provide flexibility, innovation and additional financial and human capital resources to enhance service delivery to the community. These are powerful incentives for organisations to work with others and now all local public bodies work in partnerships to different degrees. However, partnerships also bring risks. Working across organisational boundaries brings complexity and ambiguity that can generate confusion and weaken accountability. The public needs assurance that public money is spent wisely in partnerships and it should be confident that its quality of life would improve because of this form of working.

E.1.2 The term partnership can encompass a wide range of collaborative arrangements. The Council defines a Partnership as “a group of stakeholders brought together from a range of organisations, to be responsible for tackling mainly long-term challenges and opportunities in which they have a shared interest”. Examples of these types of arrangements include the Council’s involvement with social enterprise and other community or charitable organisations in which the Council doesn’t directly own a share of the organisation, or have voting rights within the organisation, but works in partnership with the organisation and may provide grant funding to it.

### E.2 PARTNERSHIPS

#### E.2.1 Key Controls

Partnership activities should be carried out in accordance with the Council’s Partnership Strategy unless otherwise approved by the Joint Chief Executive. The creation of any new partnership must be supported by a Business Case. The anticipated level of Council resources to be directed at the partnership, the complexities of the partnership and its outcome, will determine the extent to which the approval checklist is completed.

A partnership arrangement can be a “Shared Service”. Prior to commencing discussions around a shared service, the CFO and Lead Specialist - Legal shall be consulted.

#### E.2.2 Responsibilities of the Chief Finance Officer

- (i) the CFO must ensure that the accounting arrangements to be adopted relating to partnerships are satisfactory. They must also consider the overall corporate governance arrangements and, in consultation with the Lead Specialist - Legal, legal issues when arranging contracts with external bodies. They must ensure that the risks have been fully appraised before agreements are entered into with external bodies
- (ii) to advise on effective controls that will ensure that resources are not wasted
- (iii) to advise on the key elements of funding a project. They include:

- a scheme appraisal for financial viability in both the current and future years
- risk appraisal and management
- resourcing, including taxation issues
- audit, security and control requirements
- carry-forward arrangements
- accounting arrangements and impact on the requirement of the Council to produce group accounts

**E.2.3 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) to maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the CFO
- (ii) to ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the CFO
- (iii) to ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council
- (iv) to ensure that all agreements and arrangements are properly documented by way of a partnership agreement
- (v) to provide appropriate information to the CFO to enable a note to be entered into the Council's statement of accounts concerning material items

**E.3 EXTERNAL FUNDING**

With increasing pressures on Council expenditure, external funding is potentially a very important source of income. However, terms and conditions attached to funding need to be carefully considered to ensure they are adhered to and compatible with the aims and objectives of the Council. Funds from external agencies such as the Big Lottery Fund, and Enterprise M3 (our local enterprise partner), as well as project funding from Central Government Departments, sponsorship and other Corporate Social Responsibility contributions from private companies and other donors, provide additional resources which can enable the Council to augment services it delivers to the local community.

Any proposal to spend monies received from any external funding source must be in accordance with approved Revenue or Capital budgets and the Corporate Plan. Prior to bidding, the CFO and CMB must first be consulted to ensure alignment with the Council's corporate plan and that any implications across Services are fully considered.

**E.3.1 Responsibilities of the Chief Finance Officer**

- (i) to ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts
- (ii) to ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements
- (iii) to ensure that audit requirements are met
- (iv) to maintain an external funding and grant register of all funds received, their terms and conditions and reporting requirements
- (v) to ensure that all claims for funds are met by the due date



- (vi) to authorise or sign any applications for external funding on behalf of the Council

**E.3.2 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) to ensure that all applications for external funding on behalf of the Council are agreed with and authorised by the CFO
- (ii) to ensure that all claims for funds are made in consultation with the CFO
- (iii) to ensure that the project progresses in accordance with the agreed timescale and that all expenditure is properly incurred and recorded

**E.4 WORK FOR THIRD PARTIES**

**E.4.1** Current legislation enables the Council to provide a range of services to external organisations such as other local government and public bodies. Such work may enable a service unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

**E.4.2 Key Controls**

The key controls for working with third parties are:

- (i) to ensure that proposals are costed properly in accordance with guidance provided by the CFO
- (ii) to ensure that contracts are drawn up using guidance provided by the CFO and that the formal approvals process is adhered to
- (iii) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register

**E.4.3 Responsibilities of the Chief Finance Officer**

- (i) to ensure that appropriate trading accounts are established and maintained for the arrangement

**E.4.4 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) to maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Executive Head of Finance
- (ii) to ensure that appropriate insurance arrangements are made
- (iii) to ensure that the Council is not put at risk from any bad debts
- (iv) to ensure that no contract is subsidised by the Council
- (v) to ensure that, wherever possible, payment is received in advance of the delivery of the service
- (vi) to ensure that the services for which they are responsible have the appropriate expertise to undertake the contract
- (vii) to ensure that such contracts do not impact adversely upon the services provided for the Council
- (viii) to ensure that all contracts are properly documented
- (viii) to provide appropriate information to the CFO to enable a note to be entered into the statement of accounts

## FINANCIAL PROCEDURE NOTE F: LOCAL AUTHORITY COMPANIES AND CO-OPERATIVE SOCIETIES

### F.1 Introduction

F.1.1 The Localism Act 2011 has given authorities a new general power of competence that includes the power to provide services for a commercial purpose or otherwise for a charge. To carry out the power for commercial purposes, it must be done through a local authority company or co-operative society.

F.1.2 The Council is developing a council wide policy on Income Generation and Trading, which seeks to explore the greater use of its trading powers and opportunities. The establishment of a company and adopting business models can facilitate this process in introducing innovative, efficient and sustainable forms of delivery with value for money for council taxpayers. In essence, the establishment of a company or co-operative society will enable the flexibility and freedom to take advantage of entrepreneurial opportunities, not normally associated with a multi-statutorily regulated public body such as a Council.

### F.2 Key Controls:

The key controls for setting up or working with a local authority company or co-operative society are:

- (i) that a Business Case and Business Plan are prepared and approved by Executive before trading by the Company commences
- (ii) that the Executive is advised by the Lead Specialist - Legal and the CFO on the following key elements:
  - scheme appraisal and financial viability of the company and business plan
  - risk appraisal
  - governance arrangements
  - resourcing, including taxation issues
  - audit requirements
- (iii) that the Company's or Co-operative Society's Memorandum and Articles of Association include clauses to safeguard the Council's position;
- (iv) that the Company or Co-operative Society follows the accounting policies and procedures adopted and followed by the Council where the Council is the majority shareholder in the company or society;
- (v) that where the Council is the majority shareholder, at least one Officer of the Council is nominated on to the board of the Company or Co-operative Society to represent the Council's interest

### F.3 Responsibilities of the Chief Finance Officer

- (i) to review and report on the financial viability of the Company and its business plan
- (ii) to advise on the appropriate company structure and governance arrangements in consultation with the Lead Specialist - Legal
- (iii) to ensure that arrangements are made for the audit of the company's accounts in accordance with the requirements set out in the Company's Act 2006 and the Accounts and Audit (England) Regulations 2013

## PART 4 – FINANCIAL PROCEDURE RULES

- (iv) to ensure that the accounting policies adopted and followed by the Council are adopted and followed by the company where the Council is the majority shareholder in the company
- (v) to ensure that the company has appropriate financial systems and procedures in place to properly record and account for the income and expenditure, assets and liabilities of the company
- (vi) to ensure that adequate supporting records of the income, expenditure, assets and liabilities of the company are held
- (vii) to ensure that the company operates a financial year 1 April to 31 March and prepares its financial statements in accordance with the Council's statutory timetable
- (viii) to ensure that the Council as group parent has an adequate process in place to consolidate information from subsidiary company accounts with its own financial information and prepare Group Accounts in accordance with CIPFA guidance

### **F.4 Responsibilities of the Lead Specialist - Legal:**

- (i) to advise on the appropriate company structure and governance arrangements in consultation with the CFO
- (ii) to include any clauses, within the Company's Memorandum and Articles of Association to safeguard the Council's position
- (iii) to ensure all agreements and arrangements are properly documented;
- (iv) to ensure that governance arrangements are in place including arrangements for exit if necessary
- (v) to ensure that any Council Officers who are to be directors are aware of their responsibilities under Companies legislation and the Company's articles and that appropriate indemnities and insurances are in place for the Council and the Company

### **F.5 Responsibilities of Strategic Directors, Executive Heads of Service, and Service Leaders**

- (i) to seek approval from both the Lead Specialist - Legal and the CFO prior to the setting up or formal involvement in negotiations to set up or enter into a company. This will involve consideration of whether the trading should be carried out by an existing council-owned company, a subsidiary of an existing Company or a new company or co-operative society
- (ii) to obtain Executive approval before any negotiations to set up a company or co-operative society are concluded
- (iii) to ensure all agreements and arrangements are properly documented
- (iv) to ensure that governance arrangements are in place including arrangements for exit if necessary
- (v) to ensure that risk management processes are in place to identify and assess all known risks
- (vi) to ensure that a satisfactory Business Case and Business Plan are prepared before trading by the Company commences in conjunction with the CFO
- (vii) to ensure that where the Council is not the majority shareholder in the company that the Council's procurement procedure rules are followed when contracting services between the Council and the Company

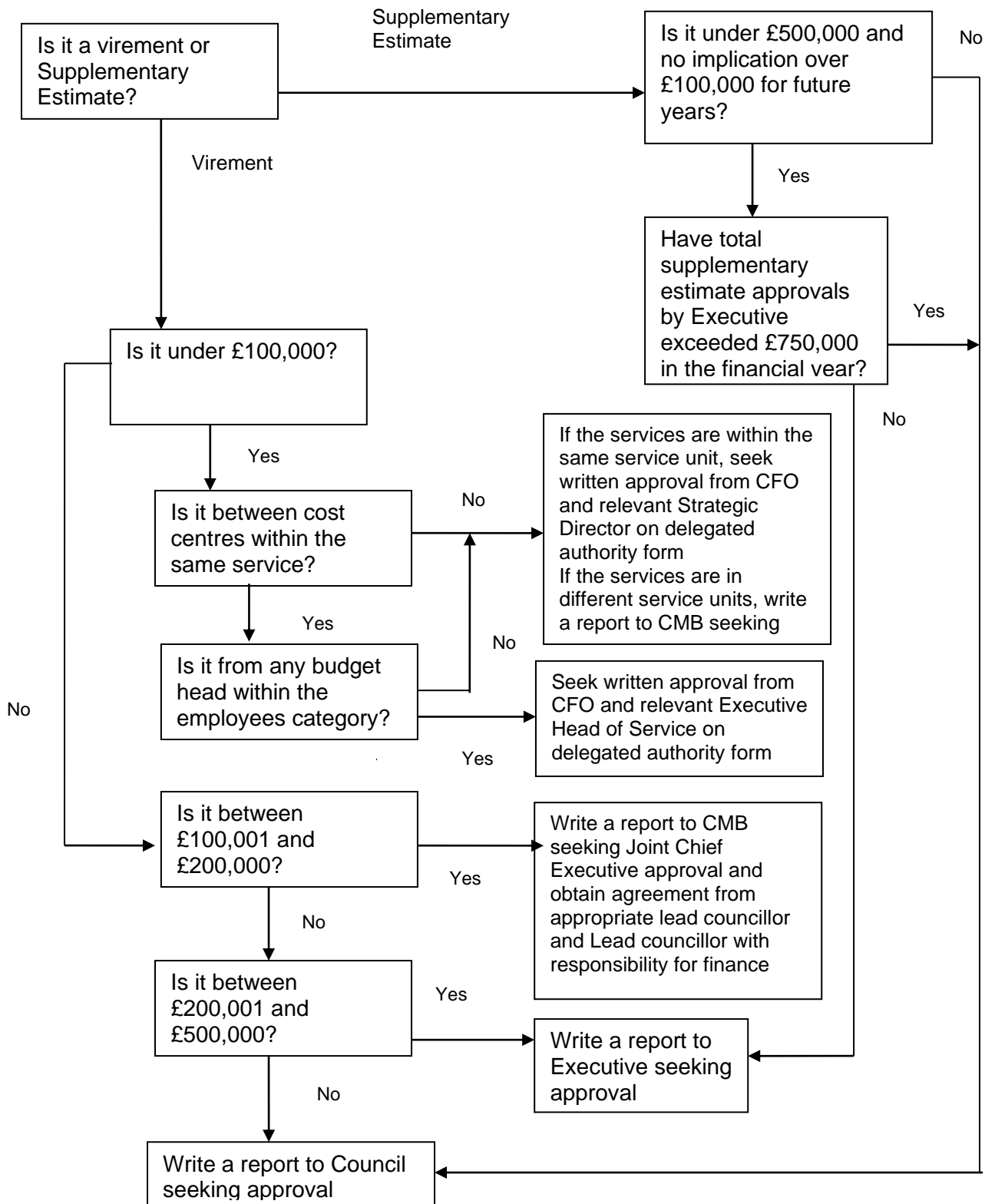
**F.6 Responsibilities of Officers who become Company Directors:**

- (i) to include any clauses, within the Company's Memorandum and Articles of Association to safeguard the Council's position, as required by the Lead Specialist - Legal and the CFO
- (ii) to ensure that risk management processes are in place to identify and assess all known risks
- (iii) to ensure that the company has appropriate financial systems and procedures in place to properly record and account for the income and expenditure, assets and liabilities of the company as advised by the CFO
- (iv) to ensure adequate supporting records of the income, expenditure, assets and liabilities of the company are held
- (v) To ensure that the company operates a financial year 1 April to 31 March and prepares its financial statements in accordance with the timetable set by the CFO
- (vi) to ensure that adequate information is provided to the Council in accordance with the timetable set out by the CFO of the Council to enable the consolidation of the company's accounts with the accounts of the Council for group reporting purposes
- (vii) to ensure that where the Council the majority shareholder in the company that the Council's procurement procedure rules are followed when contracting out services
- (viii) to safeguard the Council's right of audit access to the company

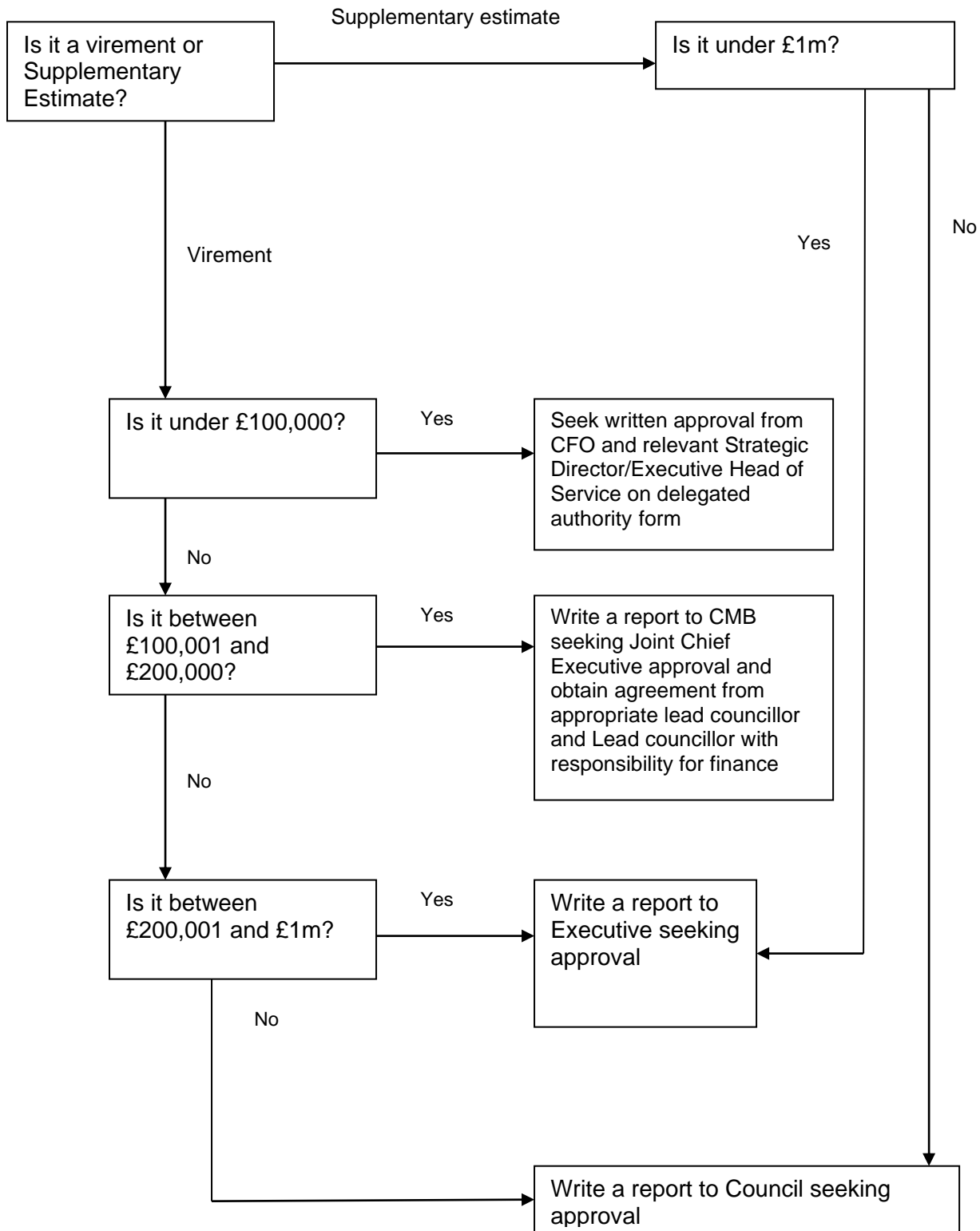
**GLOSSARY**

<b>Capital</b>	expenditure to purchase or construct a fixed asset, or expenditure adding to the value of an existing fixed asset. Expenditure that does not enhance an asset, such as repairs and maintenance expenditure, is not capital expenditure.
<b>CFO</b>	Chief Finance Officer, as defined by Section 151 of the Local Government Act 1972 (see Part 3 Delegation to Officers)
<b>Revenue</b>	expenditure on the day-to-day running of the council
<b>General Fund</b>	the Council's main revenue fund credited with charges, grants etc. and to which the costs of services are charged. However, separate accounts are maintained for other aspects of Council activities.
<b>Supplementary Estimate</b>	A supplementary estimate is approval for increased expenditure or reduced income that was not included in the original budget and therefore increases the Council's overall net budget for the year

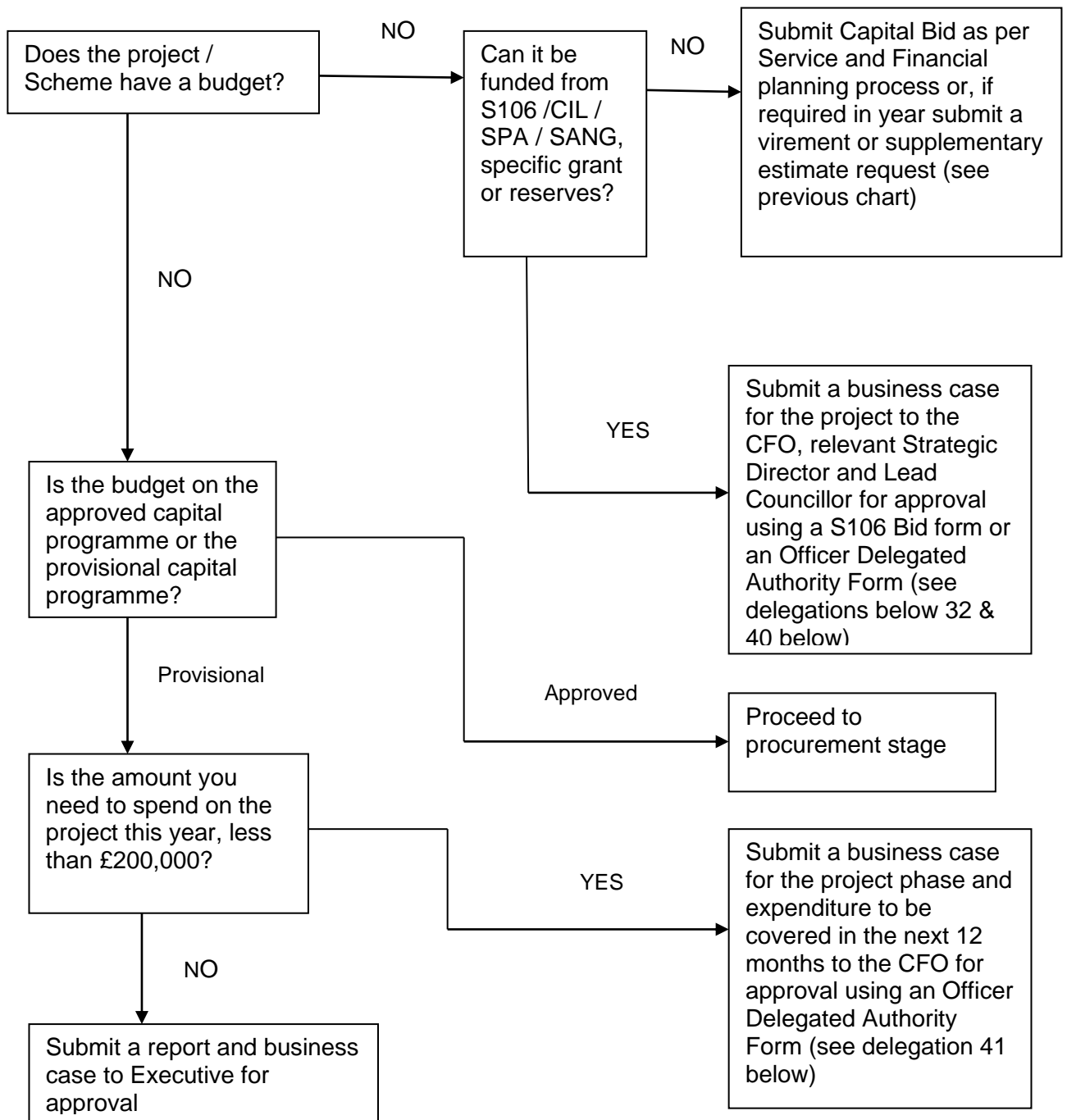
**Revenue Virement and Supplementary Estimate Processes**



**Capital Virement and Supplementary Estimate Processes**



## Capital Project / Scheme Approval Process

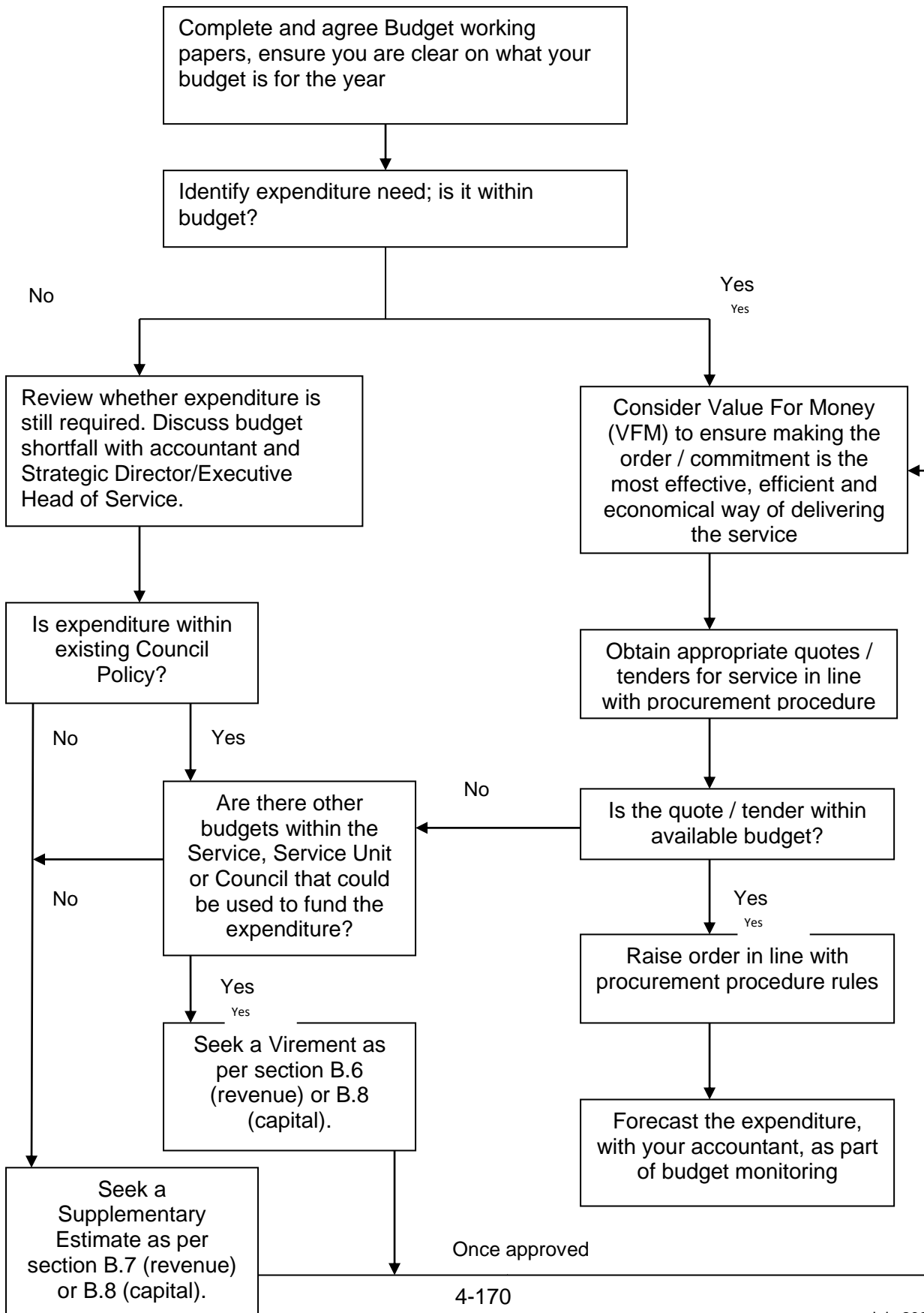


**Relevant Extracts of Responsibilities and Powers of the Chief Finance Officer and Lead Specialist - Finance set out in Part 3 of the Council's Constitution 'Delegation to Officers':**

- Lead Specialist - Finance (Paragraph 3): where confirmation of specific grant income is received after setting the capital budget for the year, to approve, in consultation with the relevant lead councillor and lead councillor for finance, amendments to the general fund budget during the year to incorporate the grant income and expenditure
- Lead Specialist - Finance (Paragraph 5): to add expenditure to the approved capital programme where it is fully financed by grant, s106, SPA, and CIL receipts and the project has been approved by the appropriate lead councillor and relevant strategic director for the service
- Chief Finance Officer (Paragraph 35): To authorise moving up to £200,000, capital projects from the provisional to the approved capital programme where a business case has been submitted by responsible officers



## Budget Management Essential Practice for Budget Managers



## GUILDFORD BOROUGH COUNCIL

### LICENSING SUB-COMMITTEE (HEARINGS UNDER THE LICENSING ACT 2003): PROCEDURE RULES

#### 1. General

- 1.1 These procedure rules are subject to the provisions of the Licensing Act 2003 (Hearings) Regulations 2005 (the regulations). Where appropriate, the provisions of the regulations have been incorporated into these rules.

#### 2. Composition of Sub-Committee

- 2.1 The Sub-Committee shall comprise three councillors drawn on a “panel” basis from the membership of the Licensing Committee in accordance with Section 9 of the Licensing Act 2003 (the ‘Act’). The quorum shall be three. Each hearing shall be chaired by a designated Licensing Sub-Committee chairman.

#### 3. Notice of Hearing

- 3.1 The licensing authority shall give to the parties a notice stating the date and time and place at which the hearing is to be held (the ‘notice of hearing’) in accordance with the provisions of the regulations.
- 3.2 The notice of hearing shall be accompanied by information regarding the following:
- (a) the rights of a party provided for in paragraphs 4.1 and 8.5;
  - (b) the consequences if a party does not attend or is not represented at the hearing;
  - (c) the procedure to be followed at the hearing; and
  - (d) any particular points on which the licensing authority considers that it will want clarification from a party at the hearing.

#### 4. Right of Attendance, Assistance and Representation

- 4.1 Subject to paragraphs 6.2 and 6.4, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. For the avoidance of doubt, a party may be assisted or represented by their ward councillor. Any councillor undertaking such a role would take no part in the determination of the matter before the Sub-Committee.
- 4.2 Upon receipt of the notice of hearing and within the period of time prescribed by the regulations\*, each party shall give to the licensing authority a notice stating:
- (a) whether he/she intends to attend or be represented at the hearing;
  - (b) whether he/she considers a hearing to be unnecessary.

(\*The notice of hearing given by the licensing authority to the parties shall specify the relevant period of time within which each party must give the notice described in this paragraph.)

## **PART 4 – LICENSING SUB-COMMITTEE: LICENSING ACT PROCEDURE RULES**

- 4.3 In a case where a party wishes any other person (other than the person he/she intends to represent him/her at the hearing) to appear at the hearing, the notice referred to in paragraph 4.2 above shall contain a request for permission for such other person to attend at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.
- 4.4 A party who wishes to withdraw any representations they have made may do so:
- (a) by giving notice to the Licensing Unit no later than 24 hours before the day or first day on which the hearing is to be held; or
  - (b) orally at the hearing.

### **5. Right to Dispense with Hearing if All Parties Agree**

- 5.1 The licensing authority may dispense with holding a hearing if all persons required by the Act to agree that such a hearing is unnecessary, other than the licensing authority itself, have done so by giving notice to the authority that they consider a hearing to be unnecessary.
- 5.2 Where all the persons required by the Act to agree that a hearing is unnecessary have done so in accordance with paragraph 5.1, the licensing authority, if it agrees that a hearing is unnecessary, shall forthwith give notice to the parties that the hearing has been dispensed with.

### **6. Hearing to be in Public**

- 6.1 Subject to paragraph 6.2 below, the hearing shall take place in public.
- 6.2 The Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.
- 6.3 For the purposes of paragraph 6.2, a party and any person assisting or representing a party may be treated as a member of the public.
- 6.4 The Sub-Committee may require any person attending the hearing who is in their opinion behaving in a disruptive manner to leave the hearing and may:
- (a) refuse to permit that person to return, or
  - (b) permit him/her to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave.

### **7. Report**

- 7.1 A report will be put before the Sub-Committee, prepared by the Licensing Unit.

## PART 4 – LICENSING SUB-COMMITTEE: LICENSING ACT PROCEDURE RULES

7.2 The Democratic Services and Elections Manager will send a copy of the report to the parties in advance of the hearing.

### 8. Procedure at Hearing

8.1 The order of business shall be at the discretion of the Sub-Committee, but will normally proceed in accordance with the following paragraphs.

8.2 The chairman shall at the beginning of the hearing introduce the members of the Sub-Committee, invite the parties to identify themselves and then explain to the parties the procedure that the Sub-Committee intends to follow.

8.3 The Sub-Committee shall then proceed to consider any request made by a party under paragraph 4.3 (request for permission for another person to appear at the hearing). Permission shall not be unreasonably withheld.

8.4 The chairman may ask a representative of the licensing authority to introduce the report and outline the matter before the Sub-Committee. Alternatively, the chairman may proceed directly to paragraph 8.5 below.

8.5 All parties shall be entitled to:

- (a) give further information in support of their application, representations or notice (as applicable) in response to a point upon which the licensing authority has given notice that it will want clarification under paragraph 3.2(d);
- (b) question any other party\* if given permission by the Sub-Committee; and
- (c) address the Sub-Committee

(\*Permission will not be given to question any other party unless the Sub-Committee considers that questioning is required for it to consider the representations, application or notice as the case may require.)

8.6 The parties will normally be invited to address the Sub-Committee in the following order:

- (a) applicant
- (b) responsible authorities
- (c) other persons (i.e. persons who have made relevant representations)

8.7 Members of the Sub-Committee may ask any question of any party appearing at the hearing.

8.8 Where there is more than one representation raising the same or similar grounds, the Sub-Committee will request that only one party address them on behalf of the parties who have made the representations in question.

8.9 In considering any representations or notice made by a party, the Sub-Committee may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.

## PART 4 – LICENSING SUB-COMMITTEE: LICENSING ACT PROCEDURE RULES

8.10 The Sub-Committee shall disregard any information given or evidence produced by a party or any person to whom permission to appear at the hearing is given by the licensing authority which is not relevant to:

- (a) their application, representations or notice (as applicable) or in the case of another person, the application, representations or notice of the party requesting their appearance; and
- (b) the promotion of the Licensing Objectives\* or, in relation to a hearing to consider a notice given by a chief officer of police, the crime prevention objective.

\*Note for information:

The Licensing Objectives referred to in sub-paragraph (b) above are as follows:

- 1. Prevention of crime and disorder
- 2. Public safety
- 3. Prevention of public nuisance
- 4. Protection of children from harm

8.11 Hearsay evidence may be admitted before the Sub-Committee, but consideration will always be given to the weight, if any, to be attached to such evidence, depending upon the circumstances in which it arises.

8.12 The parties shall be entitled to make closing submissions. The parties will normally be invited to make closing submissions in the following order:

- (a) other persons
- (b) responsible authorities
- (c) applicant

8.13 The Sub-Committee may place a time limit on the exercise of the rights set out in paragraphs 8.5 and 8.12 above. For the avoidance of doubt, these rights are repeated below:

- (a) in response to a point upon which the licensing authority has given notice that it will want clarification under paragraph 3.2(d), to give further information in support of their application, representations or notice (as applicable);
- (b) if given permission by the Sub-Committee, to question any other party; and
- (c) address the Sub-Committee (opening address and closing submissions).

All parties shall be allowed an equal maximum period of time.

8.14 The Sub-Committee may, after hearing the representations of the parties, withdraw from the room to make their deliberations. Alternatively, the Sub-Committee may ask all parties and the public to leave the room.

8.15 The Sub-Committee administrator will accompany the Sub-Committee when they retire to make their deliberations.

## **PART 4 – LICENSING SUB-COMMITTEE: LICENSING ACT PROCEDURE RULES**

### **9. Role of Legal Adviser**

- 9.1 The Sub-Committee may seek advice or clarification of any procedural, technical or legal matter from the legal adviser at any time during the course of the hearing.
- 9.2 The legal adviser shall not remain with members of the Sub-Committee when they retire to make their deliberations.
- 9.3 The legal adviser may join councillors during the course of their deliberations either when asked to do so or if he/ she realises there is a point of law on which they may need assistance but on which he/she omitted to advise them in open session.
- 9.4 Any advice given by the legal adviser to members of the Sub-Committee shall be provisional until the substance of that advice has been repeated in open session and the parties have had an opportunity to comment on it. The legal adviser will then state in open session whether the advice is confirmed or varied (and if it is varied, in what way) before councillors act upon it.

### **10. Determination of Applications**

- 10.1 The Sub-Committee shall make its determination at the conclusion of the hearing or otherwise as prescribed by the regulations.

### **11. Failure of Parties to Attend the Hearing**

- 11.1 If a party has informed the licensing authority that he/she does not intend to attend or be represented at the hearing, the hearing may proceed in his/her absence.
- 11.2 If a party who has not so indicated fails to attend or be represented at a hearing, the Sub-Committee may:
- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date; or
  - (b) hold the hearing in the party's absence.
- 11.3 Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee shall consider at the hearing the application, representations or notice made by that party.

### **12. Adjournments**

- 12.1 Subject to the provisions of the regulations, the Sub-Committee may:
- (a) adjourn the hearing to a specified date (e.g. when a party fails to attend or be represented at a hearing and the Sub-Committee considers an adjournment to be necessary in the public interest);
  - (b) arrange for a hearing to be held on specified additional dates (e.g. when further time is required for the consideration of any representations or notice made by a party).
- 12.2 Where the Sub-Committee adjourns the hearing to a specified date, it shall forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

## **PART 4 – LICENSING SUB-COMMITTEE: LICENSING ACT PROCEDURE RULES**

12.3 Similarly, when the Sub-Committee arranges for the hearing to be held on a specified additional date, it shall forthwith notify the parties of the additional date on which and time and place at which the hearing is to be held.

### **13. Record of Proceedings**

13.1 A record of the hearing shall be kept for 6 years from the date of determination or, where an appeal is brought against the determination, the disposal of the appeal.

### **14. Waiver of Rules**

14.1 Except where prescribed by the regulations, the Sub-Committee may in any particular case dispense with or modify these rules.

14.2 In particular, the licensing authority may extend any time limit provided for in the regulations for a specified period where it considers this to be necessary in the public interest.

14.3 Where the licensing authority has extended a time limit, it shall forthwith give a notice to the parties stating the period of time of the extension and the reasons for it.

### **Note: Human Rights**

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a convention right. The Sub-Committee will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following provisions:

- Article 6 – in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 – everyone has the right to respect for his/her home and private and family life
- Article 1 of the first protocol – every person is entitled to the peaceful enjoyment of his/her possessions

## GUILDFORD BOROUGH COUNCIL

### LICENSING SUB-COMMITTEE (HEARINGS UNDER THE GAMBLING ACT 2005): PROCEDURE RULES

#### 1. General

- 1.1 These procedure rules are subject to the provisions of The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 (the regulations). Where appropriate, the provisions of the regulations have been incorporated into these rules.

#### 2. Composition of the Licensing Sub-Committee

- 2.1 The Licensing Sub-Committee shall comprise three councillors drawn on a "panel" basis from the membership of the Licensing Committee in accordance with Section 9 of the Licensing Act 2003. The quorum shall be three. Each hearing shall be chaired by a designated Licensing Sub-Committee chairman.

#### 3. Notice of Hearing

- 3.1 The licensing authority shall give to the parties a notice specifying the date and time and place at which the hearing is to be held (the 'notice of hearing') in accordance with the provisions of the regulations.
- 3.2 The notice of hearing shall be accompanied by information regarding the following:
- (a) A statement that copies of representations made in relation to the application will be made available, if requested, to any person who has made representations in respect of the application and, in relation to an application under Section 188 for the transfer of a premises licence, to the licensee.
  - (b) the consequences if a party does not attend or is not represented at the hearing;
  - (c) the requirements imposed on the Sub-Committee in conducting the hearing and the procedure to be followed at the hearing; and
  - (d) the rights of a party provided for in paragraphs 4.1, 4.2 and 4.3 below;
  - (e) any matters on which the licensing authority considers that it will want clarification from a party at the hearing.

#### 4. Right of Attendance, Assistance and Representation

- 4.1 Subject to paragraphs 6.2 and 6.3 below, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. For the avoidance of doubt, a party may be assisted or represented by their ward councillor. Any councillor undertaking such a role would take no part in the determination of the matter before the Sub-Committee.



## PART 4 - LICENSING SUB-COMMITTEE: GAMBLING ACT PROCEDURE RULES

4.2 Upon receipt of the notice of hearing and by no later than five working days before the day or first day on which the hearing is to be held, each party shall give to the Sub-Committee a notice in writing stating:

- (a) whether he/she wishes to attend or address the hearing;
- (b) whether he/she wishes to be assisted or represented by another person;
- (c) whether he/she wishes to call a witness to give evidence at the hearing and the matters in relation to which he/she wishes that witness to give evidence;
- (d) whether he/she is willing to consent to the application being determined without a hearing.

4.3 A party who wishes to withdraw any representations they have made may do so:

- (a) by giving notice to the Licensing Unit no later than 24 hours before the day or first day on which the hearing is to be held; or
- (b) orally at the hearing.

### **5. Procedure where a hearing is not to take place**

5.1 Where all parties have given notice that they consent to the application being determined without a hearing, they will be notified as soon as reasonably practicable that the hearing has been dispensed with.

### **6. Hearing to be in Public**

6.1 Subject to paragraph 6.2 below, the hearing shall take place in public.

6.2 The Sub-Committee may direct that all or part of a hearing must be held in private if it is satisfied that it is necessary in all the circumstances of the case, having regard to:

- (a) any unfairness to a party that is likely to result from a hearing in public; and
- (b) the need to protect as far as possible, the commercial or other legitimate interests of a party.

6.3 The Sub-Committee may require any person attending the hearing who is in its opinion behaving in a disruptive manner, or in breach of conditions specified below, to leave the hearing and may:-

- (a) refuse to permit that person to return, or
- (b) permit him/her to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave. The Sub-Committee will take such information into account.

**7. Report**

- 7.1 A report on the application to be determined will be prepared by the Licensing Unit and put before the Sub-Committee.
- 7.2 The Democratic Services and Elections Manager shall send a copy of the agenda for the hearing (which will include the report) to the parties in advance of the hearing.

**8. Procedure at Hearing**

- 8.1 The order of business shall be at the discretion of the Sub-Committee, but will normally proceed in accordance with the following paragraphs.
- 8.2 The chairman shall at the beginning of the hearing introduce the members of the Sub-Committee, invite the parties to identify themselves and then explain to the parties the procedure that the Sub-Committee intends to follow.
- 8.3 The chairman may ask a representative of the licensing authority to introduce the report and outline the matter before the Sub-Committee. Alternatively, the chairman may proceed directly to paragraph 8.4 below.
- 8.4 The parties will normally be invited to address the Sub-Committee in the following order:
- (a) applicant
  - (b) responsible authorities
  - (c) interested parties
- 8.5 Where there is more than one representation raising the same or similar grounds, the Sub-Committee will request that only one party address them on behalf of the parties who have made the representations in question.
- 8.6 Each party shall be entitled to:
- (a) address the Sub-Committee or call witnesses to give evidence on any matter that is relevant to the application, or any representations made on the application;
  - (b) provide further information on, or explanation of, any matter on which the licensing authority has indicated that it will want further clarification under paragraph 3.2(e);
  - (c) question any other party or person representing a party on any matter that is relevant to the application, or any representations made on the application; where the Sub-Committee considers that in all the circumstances it is appropriate to do so
- 8.7 The Sub-Committee will take into consideration documentary or other information produced by a party in support of their application or any representations made on the application either before the hearing or at the hearing, with the consent of all the other parties in attendance.
- 8.8 Without prejudice to paragraphs 8.6 and 8.7 above, the hearing will be conducted so that it takes the form of a discussion led by the Sub-Committee. The Sub-Committee will not permit any cross-examination unless it considers that cross-examination is required for it properly to consider the application or representations made by any party on the application.

## PART 4 - LICENSING SUB-COMMITTEE: GAMBLING ACT PROCEDURE RULES

- 8.9 Members of the Sub-Committee may ask any question of any party or other person appearing at the hearing.
- 8.10 The parties shall be entitled to make closing submissions. The parties will normally be invited to make closing submissions in the following order:
- (a) interested parties
  - (b) responsible authorities
  - (c) applicant
- 8.11 The Sub-Committee may place a time limit on the exercise of the rights set out in paragraphs 8.6 and 8.10 above. For the avoidance of doubt, these rights are repeated below:
- (a) address the Sub-Committee (opening address and closing submissions).
  - (b) if the Sub-Committee considers it appropriate, to question any other party; and
  - (c) in response to a point upon which the licensing authority has given notice that it will want clarification under paragraph 3.2(e), to give further information in support of their application, or representations made on the application (as applicable);

All parties shall be allowed an equal maximum period of time.

- 8.12 The Sub-Committee may, after hearing the representations of the parties, withdraw from the room to make their deliberations. Alternatively, the Sub-Committee may ask all parties and the public to leave the room.
- 8.13 The committee administrator will accompany the Sub-Committee when they retire to make their deliberations.

### **9. Role of Legal Adviser**

- 9.1 The Sub-Committee may seek advice or clarification of any procedural, technical or legal matter from the legal adviser at any time during the course of the hearing.
- 9.2 The legal adviser shall not remain with members of the Sub-Committee when they retire to make their deliberations.
- 9.3 The legal adviser may join councillors during the course of their deliberations either when asked to do so or if he/she realises there is a point of law on which they may need assistance but on which he/she omitted to advise them in open session.
- 9.4 Any advice given by the legal adviser to members of the Sub-Committee shall be provisional until the substance of that advice has been repeated in open session and the parties have had an opportunity to comment on it. The legal adviser will then state in open session whether the advice is confirmed or varied (and if it is varied, in what way) before councillors act upon it.

### **10. Determination of Applications**

- 10.1 The Sub-Committee shall make its determination at the conclusion of the hearing or otherwise as prescribed by the regulations.

**11. Failure of Parties to Attend the Hearing**

- 11.1 The Sub-Committee may proceed with a hearing in the absence of a party or a party's representative, if the party has
- (a) informed the Sub-Committee that he/she does not intend to attend or be represented at the hearing (and has not subsequently advised the Sub-Committee otherwise);
  - (b) failed to inform the Sub-Committee whether he/she intends to attend or be represented at the hearing, or
  - (c) left the hearing in circumstances enabling the Sub-Committee reasonably to conclude that he/she does not intend to participate further.
- 11.2 If a party has indicated that he does intend to attend or be represented at a hearing, but fails to so attend or be so represented, the Sub-Committee may:
- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date; or
  - (b) proceed with the hearing in the party's absence.
- 11.3 Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee will consider at the hearing the application, or representations made by that party.

**12. Adjournments**

- 12.1 Subject to the provisions of the regulations, the Sub-Committee may:
- (a) adjourn the hearing to a specified date (e.g. when a party fails to attend or be represented at a hearing and the Sub-Committee considers an adjournment to be necessary in the public interest);
  - (b) arrange for a hearing to be held on specified additional dates (e.g. when further time is required for the consideration of any representations made by a party).
- 12.2 Where the Sub-Committee adjourns the hearing to a specified date it shall, as soon as reasonably practicable, notify the parties of the date, time and place to which the hearing has been adjourned.
- 12.3 Similarly, when the Sub-Committee arranges for the hearing to be held on a specified additional date it shall, as soon as reasonably practicable, notify the parties of the additional date on which and time and place at which the hearing is to be held.

**13. Record of Proceedings**

- 13.1 A record of the hearing shall be kept for 6 years from the date of final determination (including any appeal or judicial review).

**14. Waiver of Rules**

- 14.1 Except where prescribed by the regulations, the Sub-Committee may in any particular case dispense with or modify these rules.

## PART 4 - LICENSING SUB-COMMITTEE: GAMBLING ACT PROCEDURE RULES

14.2 In particular, the licensing authority may extend any time limit provided for in the regulations for a specified period where it considers this to be necessary in the public interest.

14.3 Where the licensing authority has extended a time limit, it shall forthwith give a notice to the parties stating the period of time of the extension and the reasons for it.

### **Note: Human Rights**

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a convention right. The Sub-Committee will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following provisions:-

- Article 6 – in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 – everyone has the right to respect for his/her home and private and family life
- Article 1 of the first protocol – every person is entitled to the peaceful enjoyment of his/her possessions

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GUILDFORD  
B O R O U G H

## **PART 5**

# **CODES AND PROTOCOLS**

## GUILDFORD BOROUGH COUNCIL

# CODE OF CONDUCT FOR COUNCILLORS AND CO-OPTED MEMBERS

## PART 1

### GENERAL PROVISIONS

#### Introduction and Interpretation

1. (1) This version of the Code came into effect on 6 October 2020<sup>1</sup> and applies to you only when acting in your capacity either as a councillor or co-opted (voting) member of the Council or its committees and sub-committees.
- (2) It is your responsibility to comply with the provisions of this Code which will assist the Council in meeting its statutory obligation to promote and maintain high standards of conduct by its councillors and co-opted members in accordance with the following principles:
  - **Selflessness.** Holders of public office should act solely in terms of the public interest.
  - **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.
  - **Objectivity.** Holders of public office must act and take decisions impartially fairly and on merit using the best evidence and without discrimination or bias.
  - **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.
  - **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.
  - **Honesty.** Holders of public office should be truthful.
  - **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.

#### Definition of terms

- (3) In this Code:

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<sup>1</sup> Paragraphs 24 and 25 of the Code were amended by the Council on 19 May 2021  
Paragraph 9 (i) of the Code was amended by the Council on 5 October 2021



**PART 5 – COUNCILLORS’ CODE OF CONDUCT**

“bully” means to persistently display offensive, intimidating, malicious or insulting behaviour, which may involve an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

“harass” means the undertaking of an act or series of acts which are intended to cause alarm or distress (for example the making of malicious or false assertions, whether publicly or privately) and in the context of a relevant protected characteristic defined in the Equality Act 2010 to display unwanted conduct which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

A “disclosable pecuniary interest” is an interest within the prescribed descriptions set out below that you have personally, or is an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners, and you are aware that that other person has the interest:

<i>Subject</i>	<i>Prescribed description</i>
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 relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M’s knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.

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Securities	Any beneficial interest in securities of a body where— (a) that body (to M’s knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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These descriptions on interests are subject to the following definitions;

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31 (7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

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

“meeting” means any meeting of:

- (a) the Council;
- (b) the Executive of the Council;

- (c) any of the Council’s or its Executive’s committees, sub-committees, joint committees, joint sub-committees or area committees, including any site visit authorised by the Council, the Executive or any of the aforementioned committees.

A “non-pecuniary interest” is an interest which is not a disclosable pecuniary interest (as defined above) but is nonetheless an interest that may in the mind of a reasonable observer affect your objectivity or judgement of the public interest. Examples of non-pecuniary interests include but are not limited to:

- (a) membership of organisations to which you have been appointed or nominated by the Council and in which you hold a position of general control or management, or
- (b) membership or holding a position of general control or management of any body that:
- exercises functions of a public nature
  - is directed to charitable purposes
  - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
- (4) This Code does not cover matters in respect of which the Localism Act 2011 specifically provides that criminal sanctions will apply.
- (5) A failure of a councillor or co-opted member to comply with this Code is not to be dealt with otherwise than in accordance with arrangements approved by the Council under which allegations of such failure can be investigated and decisions on such allegations can be made. In particular, a decision is not invalidated just because something that occurred in the process of making the decision involved a failure by a councillor or co-opted member to comply with the Code.
- (6) Councillors may in their individual and personal capacity be subject to legal proceedings from third parties aggrieved by an action which also amounts to a breach of this Code. Councillors should be aware that the legal indemnity provided by the Council to Councillors engaged in the discharge of Council functions is unlikely to cover actions which constitute breaches of this Code.

### **General Obligations**

2. (1) You must treat others with respect.
- (2) You must not:
- (a) do anything which may cause the Council to breach any of the equality enactments;
- (b) bully or harass any person. Examples of bullying/harassing behaviour include but are not limited to:
- (i) malicious falsehood, actions (whether by speech, written communication (including by email, text message, etc), or via social media which are intended to cause alarm or distress, spreading malicious rumours, or insulting someone by word or behaviour

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- (ii) the broadcast of confidential or private correspondence (whether by forwarding, copying, or reproducing that correspondence in a wider or public forum) where you know or ought to know that it would have the effect of inciting harassment or ridicule or having a detrimental impact on a person's reputation or business
  - (iii) exclusion or victimisation
  - (iv) unfair treatment
  - (v) overbearing supervision or other misuse of power or position
  - (vi) unwelcome sexual advances – touching, standing too close, the display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
  - (vii) making threats or comments about job security without foundation
  - (viii) deliberately undermining by constant negative criticism rather than to complain to the appropriate manager or supervisor
  - (ix) preventing individuals progressing by intentionally blocking promotion or training opportunities.
- (c) intimidate or attempt to intimidate any person who is or is likely to be:-
- (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a councillor or co-opted member (including yourself) has failed to comply with this code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

### 3. You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is:
    - (aa) reasonable and in the public interest; and

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- (bb) made in good faith and in compliance with the reasonable requirements of the Council<sup>2</sup>; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute, or in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by councillors and co-opted members.
5. You:
- (a) must not use or attempt to use your position as a councillor or co-opted member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the Council's resources:
- (i) act in accordance with the Council's reasonable requirements;
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
6. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by the Council's Chief Finance Officer or Monitoring Officer where that officer is acting pursuant to their statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.
7. If you are the subject of a complaint, you have a duty to cooperate with any investigation and to respond promptly and comply with any reasonable requests from the Investigating Officer for such things as interviews, comments on draft meeting/ interview notes or the provision of information necessary for the conduct of an investigation.
8. You must not make trivial, politically motivated, or malicious allegations of misconduct against other councillors.
9. In addition to compliance with this Code of Conduct, you are also expected to comply with:
- (i) the relevant requirements of the Protocol on Councillor/Officer Relations, the Social Media Guidance for Councillors, the Councillor Email Signature Guidance, and the Probity In Planning – Councillors' Handbook, and
- (ii) any reasonable request by the Council that you complete a related party transaction disclosure

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<sup>2</sup> Means the councillor should always consult the Monitoring Officer before taking a decision on whether or not to disclose confidential information

## PART 2

### INTERESTS

#### Predetermination

10. (1) Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as a councillor.
- (2) However, you should not place yourself under any financial or other obligation to outside organisations that might seek to influence you in the performance of your official duties.
- (3) When making decisions you must consider the matter with an open mind and on the facts before the meeting at which the decision is to be made.
- (4) If a councillor considers that they could be biased or they have predetermined their position to a decision, he or she should disclose this and should not take part in the decision-making process whenever it becomes apparent that the matter is being considered.

#### Registration of Disclosable Pecuniary Interests

11. As a councillor or co-opted member of the Council you must avoid participating in any decision where you could reasonably be seen as having an interest which compromised your honesty or objectivity. Equally you should avoid any action which might reasonably lead others to conclude that you were not acting selflessly or with integrity. In order to assist with this and to promote openness and accountability, the Monitoring Officer must, by law, establish and maintain a register of interests, open for inspection by the public at the Council's offices and publicly accessible on our website:

<http://www.guildford.gov.uk/councillorsearch>

12. You must, before the end of 28 days beginning with the day on which you became a councillor or co-opted member of the Council, notify the Monitoring Officer of any disclosable pecuniary interests which you have at the time when the notification is given. You should be aware that these interests include those of your spouse or civil partner, a person with whom you are living as husband or wife or a person with whom you are living as if they were a civil partner so far as you are aware of the interests of that person. These interests will then be entered on the register of interests.
13. Where you become a councillor or co-opted member of the Council as a result of re-election or re-appointment, paragraph 12 applies only as regards disclosable pecuniary interests not entered in the register when the notification is given.

#### Disclosure of Disclosable Pecuniary Interests and participation in decision making

14. Subject to paragraphs 29 to 32 (*dispensations*), if you are present at any meeting and you are aware that you have, or any other person referred to in paragraph 12 above has, a disclosable pecuniary interest in any matter that will be, or is being, considered at that meeting, you must, irrespective of whether that interest has been registered:
  - (a) disclose the nature of the interest to the meeting (or, if it is a sensitive interest as described in paragraph 33 below, disclose merely the fact that it is a disclosable pecuniary interest);

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- (b) not participate in any discussion or vote regarding that matter; and
- (c) withdraw immediately from the room or chamber (including the public gallery) where the meeting considering that matter is being held.

Where you have not previously notified the Monitoring Officer of that disclosable pecuniary interest you must do so within 28 days of the date of the meeting at which it became apparent.

15. Subject to paragraphs 29 to 32 (*dispensations*), if you are aware that you have, or any other person referred to in paragraph 12 above has, a disclosable pecuniary interest in any matter on which either:

- (a) you are authorised to make decisions, or
- (b) you are consulted by an officer discharging powers delegated to them,

you must not, in relation to (a) above, take any decision on that matter or, in relation to (b) above, participate in any consultation with such officer in respect of that matter

Where you have not previously notified the Monitoring Officer of that disclosable pecuniary interest you must do so within 28 days of the date on which it became apparent.

16. You may participate in any business of the Council where that business relates to the Council's functions in respect of:

- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full-time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to councillors or co-opted members;
- (v) any ceremonial honour given to councillors; and
- (vi) setting Council Tax or a precept under the Local Government Finance Act 1992.

17. You should be aware that it is a criminal offence if, without reasonable excuse, you

- (a) fail to disclose a disclosable pecuniary interest as set out above;
- (b) participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- (c) take any steps as a single member discharging a function of the Council, when you have a disclosable pecuniary interest in a matter you are dealing with
- (d) provide information in relation to your disclosable pecuniary interests that is false or misleading and you know that the information is false or misleading, or are reckless as to whether the information is true and not misleading.

**Non-Pecuniary Interests**

18. In addition to the disclosable pecuniary interests referred to above, you will have a non-pecuniary interest in any organisation, operating in the borough of which you are in a position of general control or management, even if you were appointed or nominated to that organisation by the Council. This includes public and voluntary sector organisations, such as other councils, schools, charities and some companies. It also includes political parties and campaigning groups.
19. You must, within 28 days of taking office as a councillor or co-opted member notify the Council's Monitoring Officer of your non-pecuniary interests. Any interests you declare will be included in the Council's Register of Interests. You must also notify the Monitoring Officer of any changes in your interests arising after you have completed your initial notification.
20. In accordance with this Council's requirement that you are as open as possible about your decisions and actions, where you have a non-pecuniary interest in any matter to be considered or being considered at a meeting of the Council, the Executive (or any of its committees or sub-committees), a committee, board, sub-committee or joint committee of the Council and you speak at that meeting, you must disclose to that meeting the existence and nature of that interest.
21. You can participate in any discussion and (where applicable) vote on any matter in which you have a non-pecuniary interest unless you consider, having taken advice from the Monitoring Officer, that the interest is one that would affect your objectivity in relation to that matter, in which case you should withdraw from the room or chamber when it becomes apparent that the matter is being considered at that meeting.
22. If you are discharging a function of the Council as a member acting alone (e.g. as a Lead Councillor) or if you are being consulted by an officer discharging powers delegated to them, you will need to consider whether you have a non-pecuniary interest in any matter you are dealing with in the course of discharging that function, or in any matter on which you are being consulted. If you do have such an interest, you must ensure that a record of the existence and nature of the interest is recorded in the decision notice.
23. If, having taken advice from the Monitoring Officer, you consider that the interest is one that would affect your objectivity in relation to the matter, and therefore inappropriate for you to continue to take any steps in relation to the matter, you should not do so (except for the purpose of enabling the matter to be dealt with by someone else).

**Acceptance of Gifts and Hospitality**

24. As a councillor or co-opted member of the Council you must avoid accepting any gift, hospitality or other favour which compromises, or could give the impression of compromising, your integrity, honesty or objectivity. You should never accept any gift or hospitality as an inducement or reward for anything, or if acceptance might be open to misinterpretation or which puts you under an improper obligation. In particular, whenever acting in your capacity as a councillor or co-opted member, you
  - (1) should avoid any behaviour which might reasonably be seen as motivated by personal gain;
  - (2) should never solicit a gift or hospitality;



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- (3) may accept, but must register with the Monitoring Officer within 28 days of acceptance, any gift or hospitality of an estimated value between £25 and £50, subject always to the proviso that you exercise caution in accepting any gifts or hospitality regardless of value which are (or which you might reasonably believe to be) offered to you because you are a councillor or co-opted member; and
- (4) should never accept significant gifts or hospitality with an estimated value of more than £50 from any third party.
25. For the avoidance of doubt, the following gifts and types of hospitality do not need to be disclosed/registered:
- (a) civic hospitality provided by the Council or another public authority;
  - (b) modest refreshment in connection with any meeting or on the occasion of any social meeting;
  - (c) tickets for sporting, cultural and entertainment events which are sponsored by, or organised by or behalf of the Council;
  - (d) individual gifts or hospitality with an estimated value of up to £25, or more than one gift from one donor with a combined value of no more than £25;
  - (e) gifts or hospitality offered to the Mayor (Deputy Mayor when deputising for the Mayor) at an official mayoral engagement, subject to the proviso that any gifts with an estimated value exceeding £25, accepted belong to the office of the Mayor and not to the recipient personally; or
  - (f) any declined offer of a gift or hospitality unless it falls within paragraph 27.
26. Where it is impracticable to return any unsolicited gift of a value of £50 or more, or the return would cause offence, you must as soon as practicable within 28 days after the receipt of the gift, notify the Monitoring Officer in writing, and pass the gift to the Mayor's Office for donation to a charity or raffle as appropriate.
27. You must immediately report to the Monitoring Officer any circumstances where a gift or hospitality has been offered to you or to another councillor in order to gain inappropriate favour.
28. Your participation in any item of business that affects a donor from whom you have received any gift or hospitality that is registered, or ought to be registered as set out above, will need to be considered by you on a case by case basis. You will only be expected to exclude yourself from speaking or voting in exceptional circumstances, for example where there is a real danger of bias, or where you consider, having taken advice from the Monitoring Officer, that acceptance of a gift or hospitality would affect your objectivity in relation to the consideration of that business.

### Dispensations

29. A councillor or co-opted member with a disclosable pecuniary interest in a matter may submit a written request to the Monitoring Officer for the grant of a dispensation allowing that councillor or co-opted member to participate in any discussion and/or vote on that matter at a meeting.

## PART 5 – COUNCILLORS' CODE OF CONDUCT

30. The Monitoring officer may, after having had regard to all relevant circumstances, grant a dispensation to the councillor or co-opted member only if, he considers that without the dispensation:
- (a) the number of persons prohibited from participating in any particular business in relation to the matter would be so great a proportion of the body transacting the business as to impede the transaction of that business, or
  - (b) considers that without the dispensation each member of the Executive would be prohibited from participating in any particular business to be transacted by the Executive in relation to the matter.
31. The Corporate Governance and Standards Committee may, after having had regard to all relevant circumstances, grant a dispensation to the councillor or co-opted member only if, the Committee considers that:
- (a) without the dispensation the representation of different political groups on the body transacting the particular business would be so upset as to alter the likely outcome of any vote relating to that business, or
  - (b) granting the dispensation is in the interests of persons living in the borough, or
  - (c) it is otherwise appropriate to grant the dispensation.
32. Any dispensation granted must specify the period for which it has effect, and the period specified may not exceed four years.

### **Sensitive Information**

33. (1) Sub-paragraphs (2) and (3) apply where:
- (a) a councillor or co-opted member of the Council has an interest (whether or not a disclosable pecuniary interest), and
  - (b) the nature of the interest is such that the councillor or co-opted member, and the Monitoring Officer, consider that disclosure of the details of the interest could lead to the councillor or co-opted member, or a person connected with that councillor or co-opted member, being subject to violence or intimidation.
- (2) If the interest is entered in the register of interests, copies of the register that are made available for inspection, and any version of the register published on the Council's website, must not include details of the interest (but may state that the councillor or co-opted member has an interest the details of which are withheld under this provision of the Code).
- (3) Where a disclosable pecuniary interest is not entered on the register of interests and would otherwise require disclosure at a meeting, the councillor or co-opted member shall be entitled to merely disclose at the meeting the fact that they have such an interest in the matter concerned.

### **Removal of entries in the register**

34. An entry in the register of interests will be removed once the person concerned:

## PART 5 – COUNCILLORS' CODE OF CONDUCT

- (a) no longer has the interest, or
- (b) is (otherwise than transitorily on re-election or re-appointment) neither a councillor nor a co-opted member of the Council.

### **Review of the Councillors' Code of Conduct**

35. This code of conduct shall normally be reviewed every four years during the year following the Borough Council Elections, and any such review shall involve formal consultation with parish councils within the borough.

## GUILDFORD BOROUGH COUNCIL

### CODE OF CONDUCT FOR STAFF

#### 1. Introduction

- 1.1 The public must have full confidence in the professionalism and integrity of all members of staff.
- 1.2 This Code applies to all members of staff when working for or acting on behalf of the Council, including temporary and casual workers, agency workers, interims and contractors. Where there is no direct employment-contract relationship, regard shall be had to this code when assessing acceptable behavioural standards.
- 1.3 The Code does not affect your rights and responsibilities under the law; its purpose is to provide clear and helpful guidance.
- 1.4 It is important for you to know that disciplinary action is possible if the Code is not followed and you should familiarise yourself with this document.
- 1.5 You should always seek advice from your line manager if in doubt about any aspect of this Code, especially the relevance of any personal relationships or interests<sup>1</sup>.

#### 2. Version

- 2.1 This document is version 2.0. It will be reviewed and updated as and when necessary to ensure that it is up to date and relevant.

#### 3. General standards

##### 3.1 You **shall**:

- Provide the highest possible standard of service to the public
- Provide impartial advice to councillors and the public
- Report to the appropriate management any breaches of this Code.
- Declare any gift, loan, reward, favour or advantage given to you because of the job you do.
- Present a smart professional appearance.
- If you are issued with a uniform, only wear it when undertaking your professional duties.
- Comply with the Council's **Behavioural Standards**.

##### 3.2 You **shall not**:

- Conduct yourself in a way that would bring the Council into disrepute.

#### **Organisational Culture Framework**

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#### <sup>1</sup> What is an 'interest'?

An interest can be something like the house or the area where you/your family live. Alternatively, it can be something you, your family or someone close to you do aside from working for the council like another job, membership of a political party or a club or society.

**4. Political neutrality**

4.1 You should remember that the Council is a political organisation and be mindful of this in all areas of your work and personal life. Some jobs in the Council are 'politically restricted' and those jobs are subject to rules about personal life as well as in work. The Council has written some [Guidance on Politically Restricted Posts](#).

4.2 You **shall**:

- Address all councillors respectfully and impartially.
- Be politically neutral when offering advice to councillors.
- Act according to any political restrictions set out in your job description.

4.3 You **shall not**:

- Allow your own personal or political opinions to interfere with your work.
- Attend political group<sup>2</sup> meetings without your strategic director's knowledge and approval.

**5. Use of media and social media**

5.1 The 'media' or the 'press' means news websites, radio or television stations and newspapers. When we talk about 'social media', we mean online social networking websites like Facebook, Instagram, Twitter etc.

5.2 If you post malicious, untrue or otherwise inappropriate statements about the Council, councillor(s) or members of staff on social media sites, this will be a misuse of social networking and any such posting(s) may result in the Council taking disciplinary action against you.

5.3 You **shall**:

- Direct anyone from the media with a query to contact the Council's trained officers in the Communications and PR Team.
- Be aware that any comments you make on social media websites will be public and expressing in a public forum (whether via news or other media or other online or social media) personal views which conflict with the policies of the Council may result in disciplinary action being taken against you for bringing the Council into disrepute.
- Always comply with the Council's [Communications Protocol](#) and [social media standards](#).

5.4 You **shall not**:

- Post comments or disclose information about Council business, other officer colleagues, councillors or the Council that could be described as offensive,

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<sup>2</sup> **What is a Group?**

Councillors can form political groups and the largest group or a combination of groups usually form an administration to provide the political leadership for the authority. There is statutory recognition for political groups and it is common practice for such groups to consider matters of Council business in advance of consideration by the relevant Council committee.

abusive or damaging even if those comments are made outside of working hours.

- Make available any of the Council's confidential information without the proper permission.

**6. Disclosure of information**

6.1 Sharing confidential information without permission is a serious matter and may result in dismissal under the Council's **Disciplinary Policy and Procedure**. It could also be a criminal offence and lead to criminal proceedings.

6.2 You **shall**:

- Know and apply the Council's policies on the management of sensitive information and be aware of the types of information that can be shared depending upon the person who asking for it.
- Check with your manager or the Monitoring Officer if you are unsure what information can be shared.
- Maintain the confidentiality of all sensitive information (whether personal or otherwise) that you have access to in the course of doing your job.

6.3 You **shall not**:

- Use Council-held information in a way that would promote your own personal interests or the interests of others or share it with others to use in such a way.
- Share personal information about another officer or councillor without proper authority to do so.

**7. Relationships**

You **shall**:

- Treat other members of staff with fairness, dignity and respect. The Council will not tolerate bullying, harassment or victimisation in any form. See the **Bullying and harassment policy**
- Be courteous, efficient, and impartial to councillors, members of the public and service users. See the **Protocol on Councillor/Officer relations**
- for guidance on role and relationships.
- Tell your strategic director if you have any business or personal relationships with an external service provider or potential contractor working for the council.
- Inform your manager if you are related to someone at work or if you are having a close personal relationship with someone at work.

**8. Use of the Council's equipment and resources**

You **shall**:

- Use Council-owned equipment and resources given to you to do your job in a lawful and responsible manner.
- Strive to ensure value for money when undertaking your professional duties.

- Use Council facilities and equipment only in connection with the duties required by your job.
- Follow the rules regarding:
  - [ICT users' policy](#)
  - [Information systems security policy](#)
  - [Data protection policy](#)

**9. Contracts and tendering**

9.1 You **shall**:

- Display accountability and openness and follow [Council's Procurement Procedures rules](#) during the tendering process.
- Respect the confidentiality of tenders. [Awarding contracts](#)
- Disclose in writing to your line manager and the Monitoring Officer, any interest you may have in a contract which is, or is proposed to be, appointed by the Council, in accordance with s117 of the Local Government Act 1972.

9.2 You **shall not**:

- Offer, promise or give someone a reward to make them perform their activities improperly.
- Accept, agree to accept or request a reward in return for performing an activity. [Anti-fraud and corruption policy](#)
- Bribe anyone in order to win business, keep business or gain a business advantage for the council. [Anti-bribery policy](#)

**10. Appointments and employment matters**

10.1 It you are involved in staff recruitment you **shall**:

- Appoint based on merit and purely on the ability of the applicant to undertake the duties of the post.

10.2 It you are involved in staff recruitment you **shall not**:

- Be involved in the appointment of a relative or friend
- Be involved in any decisions relating to discipline, remuneration or promotion of any member of staff who is a relative, partner, or close friend outside work.
- Show any favouritism for any member of staff who is a relative, partner, or close friend outside work.

**11. Outside commitments**

11.1 You **shall**:

- Usually be able to take up additional employment outside of your job for the Council provided it does not conflict with your Council role; however, you must first notify your line manager.
- Declare any additional hours working for an external employer to your line manager.

11.2 You **shall not**:

- If you are a senior officer, take up other employment in addition to your Council role without the express consent of your strategic director.
- Undertake activities outside of your Council work that may be regarded as bringing the Council into disrepute.

**12. Personal Interests**

12.1 If your job is Band 6 and above, it is expected that you **shall inform your strategic director**:

- If you, a close family member or someone with whom you have a close relationship has a financial interest in any matter being dealt with by the council.
- If you, a close family member or someone with whom you have a close relationship has submitted a planning application.
- If you have any interest in any council decision that you are able to influence for example, if you are a member of local club, society, or organisation in receipt of council grants, or which is a tenant or licensee of the Council.
- If you are a member of a political party.

12.2 Your strategic director will ask you to fill out a **Staff Declaration of Interest** form. What you declare will be included on a register of senior staff interests with access limited to your strategic director, the Joint Chief Executive, political group leaders and committee chairmen.

**13. Safeguarding**

13.1 The Council has a statutory duty to ensure the safety and welfare of children, young people and adults at risk and the Council has a **Safeguarding Policy**.

13.2 When you are doing your job, if you have direct or indirect contact with children or adults at risk, or if you have access to information about them, you have a duty to safeguard and promote their welfare.

13.3 If you have concerns relating to the welfare of a child or adult at risk, you must report these to your line manager or your strategic director.

**14. Gifts, hospitality and sponsorship**

14.1 You **shall**:

- Tell your strategic director about any gift received or hospitality accepted over a value of £25, which will be placed on a 'register of gifts and hospitality' with access limited to the Joint Chief Executive and the Monitoring Officer
- Be aware that limited hospitality (a meal/refreshments) is acceptable as long as it does not reach a level that it might seem like it has influenced a business decision.
- Decline a gift or an offer of hospitality if you believe that the offer was made in order to exert influence over you or the Council or if you are uncertain about the reason for the invitation.
- Be aware that a modest lunch is normally acceptable, but entertainment is unacceptable unless it is for charity fundraising.



## PART 5 – CODE OF CONDUCT FOR STAFF

- Be aware that the rules concerning the acceptance of gifts or hospitality will apply if an outside organisation should sponsor a Council activity by invitation, tender, negotiation or voluntarily.

### 14.2 You **shall not**:

- Appear to influence the Council's relationship with anyone by accepting any gifts and hospitality from them.
- Accept any gifts, other than items of small value [£25 or less].
- Seek or accept special treatment from anyone because you work for the Council.
- Seek or accept special treatment regarding the use of any Council owned facility, unless you have been given permission to do so by the Council.
- Directly benefit yourself, or anyone with whom you have a close relationship, from any Council sponsored event or activity.

### 15. **Equalities and health and safety issues**

You should read and follow the Council's policies relating to [equal opportunities](#), [alcohol and substance misuse](#) and [health and safety](#).

### 16. **Notification of Criminal Investigations and other required disclosures**

You should inform your manager in writing straight away if during your employment with the Council you are arrested, charged with, or convicted of a criminal offence.

### 17. **Breach of code of conduct**

Any breach of the code of conduct may be regarded as a disciplinary offence.

[Disciplinary Policy and Procedure](#)

[Grievance policy and procedure](#)

[Whistleblowing procedure](#)

*I have read and understood the content of this document*

Staff Signature

.....

Date.....

Manager Signature

.....

Date .....

## GUILDFORD BOROUGH COUNCIL

### PROTOCOL ON COUNCILLOR/OFFICER RELATIONS

#### 1. INTRODUCTION

- 1.1 Mutual understanding and basic respect between councillors and officers are the greatest safeguard of the integrity of the Council.
- 1.2 Copies of this protocol will be issued to all councillors upon their election to the council and to all staff upon their recruitment to the council and included in all induction training and refresher sessions.
- 1.3 Questions on interpretation of this protocol will be determined by the Monitoring Officer in consultation with the Chairman of the Corporate Governance and Standards Committee, unless the provision in question relates to a matter to be determined by the Joint Chief Executive, in which case it will be determined in consultation with the Leader of the Council.
- 1.4 The Corporate Governance and Standards Committee will be responsible for reviewing the practical application of this protocol and will make appropriate suggestions for its improvement and development.
- 1.5 The protocol is supplementary to the Councillors' Code of Conduct and Staff Code of Conduct contained in Part 5 of this Constitution.

#### 2. VERSION

- 2.1 This will be an evolving document and in recognition of changes in working practices and the Protocol will be reviewed at least every four years at the same time that the Council reviews its Councillor Code of Conduct and the Staff Code of Conduct and the Probity in Planning document

#### 3. ROLES

- 3.1 Both councillors and officers serve the public, but their responsibilities are distinct. This protocol seeks to guide councillors and officers in their relations with one another.
- 3.2 Councillors are responsible to the electorate. Their job is to represent their constituents, to agree policy and to take all non-delegated decisions. They serve as long as their term of office lasts.
- 3.3 Officers are responsible for day-to-day managerial and operational decisions within the authority. Their job is to give advice to councillors and the public, to take all delegated decisions and to carry out the council's work in a professional manner.
- 3.4 The role of officers is to seek to assist councillors within the restrictions of their levels of authority and in regard to the rules governing access to information. They also have a role to ensure that councillors are properly informed about information to which they have a right of access. Officers should not use professional expertise to discourage or intimidate councillors from pursuing lines of inquiry. There may be service level agreements set out regarding the timescales for responding to particular queries or

## **PART 5 – PROTOCOL ON COUNCILLOR /OFFICER RELATIONS**

referrals from individual councillors. These may vary dependent on the 'level' of a councillor or the topic in question. For example, responses to the leader of the council or the leader of any political group may need to be given more speedily than a referral from a backbench councillor. Responses to matters of urgency, for example regarding the safeguarding of vulnerable adults or children can require a prompter response due to the immediacy of the issue and the need to take action within a short timeframe. Both officers and councillors have to prioritise their work. When their priorities do not coincide, they should discuss and agree a mutually acceptable timescale for response.

3.5 Officers must not allow their own personal or political opinions to interfere with their work.

### **4. MUTUAL RESPONSIBILITIES OF COUNCILLORS AND OFFICERS**

4.1 To work in partnership.

4.2 To have respect for each other's roles, workloads and pressures.

4.3 To display respect, dignity, courtesy, integrity, mutual support and appropriate confidentiality.

4.4 To undertake training and development in order to carry out their role effectively.

4.5 To not subject the other to bullying or harassment.

4.6 To have a common purpose; providing the best possible service to the residents and other stakeholders of Guildford Borough

4.7 To have a commitment to collaborative, non-adversarial resolution of disputes.

### **5. RELATIONS WITH STATUTORY OFFICERS**

5.1 In reaching their decisions, councillors must have regard to the advice given by officers and in particular, that offered by the:

- a) Chief Finance Officer, whose duties are prescribed under section 114 of the Local Government Finance Act 1988
- b) The Monitoring Officer's duties are set out under section 5 of the Local Government and Housing Act 1989. The Monitoring Officer should be consulted when there is any doubt as to the Council's power to act; or in determining whether any 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.
- c) The statutory officers of the Council are the Head of Paid Service (usually the Joint Chief Executive), the Monitoring Officer and the Chief Finance Officer (or Section 151 Officer). All have a duty to advise the council as a corporate body. The ability of these officers to discharge their duties depends not only on effective working relations with their councillor colleagues, but also on the flow of information and access to the debating processes of politicians. As such, it is crucial that you have a good working relationship with your statutory officers that are based on a clear understanding of their roles and responsibilities.

## **6. EFFECTIVE COLLABORATIVE WORKING IS ESSENTIAL**

In establishing an effective working relationship, there should be clarity about the respective roles of councillors and officers. This is often made easier if:

- (a) Both parties discuss and agree the values and behaviours they expect from each other in a relationship of mutual trust.
- (b) Councillors identify their priorities, assisted by officers.
- (c) Officers provide clear advice and offer alternative courses of action where they exist.
- (d) Councillors and officers communicate clearly and openly, avoiding ambiguity and the risk of misunderstanding
- (e) Everyone works in a spirit of partnership, to turn the council's core values and priorities into practical policies for implementation.
- (f) While councillors and officers may have their own specific roles and responsibilities, there are clearly some grey areas in which both groups have a shared responsibility, e.g. agreeing workable policies and monitoring performance. In addition to this, councillors and officers both face the same public service agenda, i.e. delivering quality services to local people in a climate of tough challenges and constraints (budgets and timescales).

## **7. GENERAL RULES**

- 7.1 All dealings between councillors and officers will be courteous and neither party will seek to take unfair advantage of their position.
- 7.2 A councillor will not raise matters relating to the conduct or capability of an officer at any public session of a meeting.
- 7.3 If a councillor has a concern regarding an officer's conduct or behaviour that is not resolved through respectful mutual discussion then they may raise the matter with the officer's Executive Head of Service or Strategic Director.
- 7.4 If after receiving a written report from the Executive Head of Service or Strategic Director, a councillor remains concerned, the Joint Chief Executive will be advised.
- 7.5 Should any further action with regard to an officer's conduct or behaviour be undertaken, it will be in accordance with the appropriate employment rules and procedures.
- 7.6 An officer will not raise matters relating to the conduct or capability of a councillor at any public session of a meeting.
- 7.7 If an officer has a concern regarding a councillor's conduct or behaviour that is not resolved through respectful mutual discussion then they may raise the matter with their Executive Head of Service, Strategic Director or the Joint Chief Executive.

## PART 5 – PROTOCOL ON COUNCILLOR /OFFICER RELATIONS

7.8 The Executive Head of Service, Strategic Director or Joint Chief Executive will take the appropriate action by approaching the councillor concerned and/or his or her group leader.

7.9 Officers should endeavour to provide councillors with sufficient notice of meetings to allow them to prepare and balance their diaries and commitments

### **8. OFFICER ADVICE TO COUNCILLORS AND POLITICAL GROUPS<sup>1</sup>**

8.1 Officers serve the council as a whole and not any individual political group or any individual councillor.

8.2 An officer briefing meeting prior to a committee meeting or such support in whatever form it takes will be available to all councillors and all party groups.

8.3 The rules for providing advice to councillors include:

- (a) Officer advice and support must relate only to matters of council business and never include advice on political issues.
- (b) Officers may refuse to provide advice to a councillor/group until guidance has been sought from their Strategic Director or the Joint Chief Executive if that advice might be considered inappropriate.
- (c) Decisions made at party group meetings are not decisions of the Council and must not be treated or acted upon as such by either councillors or officers.
- (d) Officers should not normally attend formal meetings of political groups.
- (e) If a councillor requests information from an officer, the officer will inform the councillor at the time if that information is to be made available to any other councillors.
- (f) Councillors should not consider an officer supportive of a policy because they have helped to construct it
- (g) Councillors should contact report authors for any further information in advance of a committee meeting

8.4 Officer correspondence to parish councils and amenity groups will be copied to local ward councillors, unless the correspondence contains confidential information to which the provisions of Data Protection Act 2018 apply.

### **9. SUPPORT SERVICES TO COUNCILLORS AND POLITICAL GROUPS**

9.1 Support services will be provided to assist councillors only in discharging their role as councillors.

9.2 Councillors will ensure they are up to date with and in compliance with all council policies

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#### <sup>1</sup> **What is a Political Group?**

Councillors can form political groups and the largest group, or a combination of groups, usually forms an administration to provide the political leadership for the authority. There is statutory recognition for political groups, and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of consideration by the relevant Council body.

in respect of IT, information security and data protection.

**10. COUNCILLORS' ACCESS TO INFORMATION AND COUNCIL DOCUMENTS**

Cooperation between Councillors and Officers is vital to ensure a good service to the public. A free flow of information between Officers and Councillors is an essential part of this cooperation.

- 10.1 All confidential information held by the Council, in whatever form, remains confidential to the council and subject to the requirements of the Data Protection regulations, unless and until such confidentiality is waived by the Monitoring Officer. Any dispute will be determined by the Monitoring Officer in consultation with the Corporate Governance and Standards Committee.
- 10.2 Officers and elected Members are responsible for ensuring that personal information and data is only handled and processed in accordance with the provisions of the Data Protection Act 2018 and to familiarise themselves with their obligations under the 2018 Act accordingly.
- 10.3 Officers and councillors who require advice or assistance in relation to their duties under the Data Protection Act 2018 should take advice from the Monitoring Officer or the Information Rights Officer as appropriate.
- 10.4 Councillors can approach any Executive Head of Service to ask for information or seek advice. In the event of any difficulty, councillors should approach the relevant Strategic Director or the Joint Chief Executive.
- 10.5 All councillors have a statutory right to inspect any council documents<sup>2</sup> which contain material relating to any business which is to be transacted at a Council, Executive, committee or sub-committee meeting.
- 10.6 The over-riding principle is that Councillors should be given access to all documents<sup>2</sup>, unless there is a justifiable reason for refusal. This reason must be clearly explained. Councillors wishing to view confidential information will be required to justify the request in specific terms.
- 10.7 Councillor access to council documents<sup>2</sup> is a common law right in so far as access to the document in question is reasonably necessary to enable the councillor to perform their duties. This is commonly known as “the need to know” principle. Where information is being withheld the Executive Head of Service will advise the councillor why it is being withheld.
- 10.8 In case of difficulty, the Executive Head of Service or councillor may seek the advice of the Monitoring Officer.
- 10.9 Members should be kept fully informed and consulted by Officers on all significant matters affecting their Ward or other area of responsibility. If a matter is urgent or sensitive, Officers must ensure Members are made aware as soon as reasonably possible and before the matter is made public.
- 10.10 All information permitted to a councillor will be provided under the terms of the

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<sup>2</sup> Council documents in whatever format

## **PART 5 – PROTOCOL ON COUNCILLOR /OFFICER RELATIONS**

Councillors' Code of Conduct and must be provided only for the reason requested and will not be shared except under terms set out in the Code.

- 10.11 Any councillor found to be or suspected of being in breach of the requirement to keep the confidentiality of items taken 'in committee' may be the subject of a Code of Conduct complaint.

### **11. COUNCILLOR/OFFICER RELATIONSHIPS**

- 11.1 Working relationships between councillors and officers must always remain and appear professional and impartial.
- 11.2 A Strategic Director will be responsible for the contents of a report. Councillor queries about report contents will be addressed to the report author. Issues arising between a councillor and a report author will be referred to the appropriate Strategic Director. If unresolved the matter will pass to the Joint Chief Executive for resolution, in consultation with the Council Leader.
- 11.3 Officers work closely with councillors, but they are accountable to their Executive Head of Service or Strategic Director and cannot go beyond the bounds of whatever authority they may have been given by their Executive Head of Service, Strategic Director or by the Council.
- 11.4 It is appropriate for members of the Overview and Scrutiny Committee to ask officers to explain and justify advice given to councillors, whether on the Executive or otherwise, and to justify decisions officers have taken under delegated powers.
- 11.5 Where requested to provide information to the Overview and Scrutiny Committee, officers will provide that information in as a comprehensive and timely fashion as if the request had come from the Executive.

### **12. CORRESPONDENCE**

- 12.1 Correspondence between a councillor and an officer, will not be copied by the officer to any other councillor, unless the councillor who initiated the correspondence copied it to other councillors in which case the officer shall copy his correspondence to those other councillors.
- 12.2 If it is necessary to copy correspondence to another councillor, this should be made clear to the original councillor through notation on the correspondence.
- 12.3 A system of 'silent copies' (Bcc) should never be employed. Correspondence sent to all councillors or groups of councillors will make the circulation list clear.
- 12.4 Official letters on behalf of the Council will be sent in the name of the appropriate officer rather than in the name of a councillor. Letters which create obligations or give instructions on behalf of the Council will never be sent out in the name of a councillor.
- 12.5 Councillors and officers will undertake training in the principles of the General Data Protection Regulation and will apply those principles when producing and storing personal information.

**13. WARD COUNCILLORS**

- 13.1 Whenever a significant meeting is organised by the Council to consider a local issue, all councillors 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, ward councillors will be notified at the outset of the exercise.
- 13.2 Officers will not normally attend meetings arranged by councillors unless this has been discussed and agreed with the appropriate Executive Head of Service or Strategic Director in advance in order that proper representation and briefing can be arranged.

**14. CEREMONIAL EVENTS**

- 14.1 The Mayor, or in his/her absence the Deputy Mayor, will be the appropriate person to lead/ represent the Council at ceremonial events which are of particular significance or are not specifically associated with the office of the Leader, a particular Portfolio/ Committee/Sub-Committee.
- 14.2 Local Councillors should always be informed of, and, where possible, invited to ceremonial events taking place within their own Wards.
- 14.3 Any Councillor taking part in a ceremonial event must not seek disproportionate personal publicity nor use the occasion for party political advantage bearing in mind that the Councillor is representing the Council as a whole.
- 14.4 Further guidance is contained in the Communications Handbook/ Media guidelines

**15. ROLES OF COUNCILLORS AND TRAINING REQUIREMENTS**

- 15.1 Councillors are asked to commit to the Training and Development opportunities that are afforded to elected Councillors, including a full Induction Programme at the commencement of each term of office. There are also mandatory training requirements for the Regulatory Committees (Planning and Licensing) to which Councillors, appointed to serve on these Committees, are required to commit.

**16. INDEPENDENT / CO-OPTED PERSONS**

- 16.1 This protocol applies equally to those persons who are co-opted on to any of the Council's committees or any other bodies.

**17. ACCESS TO OFFICERS**

- 17.1 Officers will always be available to ward councillors to discuss any issues of concern in their ward or area of responsibility.
- 17.2 With the Council-wide use of e-mail, Councillors should seek to avoid, as far as possible, entering an Officer's work area and requiring immediate attention. Where an urgent response is required, the Councillor should seek to telephone the Officer and if required, arrange a convenient meeting.



- 17.3 Ward councillors are encouraged to contact relevant officers in advance of committee meetings to discuss any concerns.

## **18. UNDUE PRESSURE**

- 18.1 To ensure that the business of the Council is carried out effectively, Councillors and Officers should endeavour to create a cordial working relationship with each other.

Councillors should:

- Be aware of how they speak with and relate to officers, avoiding undue pressure;
- Avoid personal attacks on officers, particularly in publications, press statements or meetings attended by the public;
- Avoid words or actions which could undermine respect for officers by the public;
- Never require an officer to carry out work on a matter which is not justified in terms of budgetary controls, council policy or the officer's duties and responsibilities

Officers should:

- Be aware of how they speak with and relate to Councillors;
- Remember at all times that they work in a political environment;
- Any Officer who is personally connected to a Councillor must notify his/her Strategic Director. Officers must not use undue influence over a Councillor, nor develop close personal friendships that could compromise or be perceived to compromise the integrity of their actions.

### **SUMMARY**

The working relationship between councillors and officers is integral to the successful operation of an effective local authority. Politicians and managers have vital roles to play in providing a form of joint leadership which is based on shared knowledge, skills and experience. And at the heart of this relationship should be a common vision, shared values and mutual respect.

**PART 5 – PROBITY IN PLANNING**  
**PROBITY IN PLANNING LOCAL CODE OF PRACTICE –HANDBOOK FOR**  
**COUNCILLORS AND OFFICERS**

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## 1. Foreword

- 1.1 This Probity in Planning guide is for councillors and planning officers and reflects the requirements of the Localism Act 2011, the recommendations of the Third Report of the Committee on Standards in Public Life ('Nolan Report'), Local Government Association guidance and the Council's own experience.
- 1.2 The guidance clarifies how all councillors should understand their roles and responsibilities when involved in planning discussions, plan making and determining planning applications.
- 1.3 It is important that councillors and officers familiarise themselves with this guidance and with the other Codes and Protocols which sit alongside it in Part 5 of the Council's Constitution. Councillors must ensure that their conduct accords with the requirements of the Councillors' Code of Conduct and Protocol on Councillor/Officer Relations. Equally, officers must ensure that their conduct accords with the Code of Conduct for Staff and the Protocol on Councillor/Officer Relations.
- 1.4 Councillors should note that this guidance does not constitute legal advice.
- 1.5 Any councillor or officer with any doubts about the matters presented in this guidance should contact the Monitoring Officer for clarification.

## 2. Introduction

- 2.1 The planning system involves taking decisions about the use and development of land. It is not an exact science and relies on informed judgement within a firm policy context. It is important that all concerned (applicants, objectors, practitioners, officers, councillors, and the general public) have complete confidence in the integrity and transparency of the system.
- 2.2 Councillors are required to adhere to the following general principles prescribed by the Localism Act 2011, as attached to the Councillors' Code of Conduct:
  - **Selflessness.** Holders of public office should act solely in terms of the public interest.
  - **Integrity.** Holders of public office must avoid placing themselves under any obligation to people or organisations that 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.
  - **Objectivity.** Holders of public office must act and take decisions impartially, fairly and on merit using the best evidence and without discrimination or bias.
  - **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.
  - **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.
  - **Honesty.** Holders of public office should be truthful.

- **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.

Officers are also obliged to adhere to the above-mentioned principles.

- 2.3 The Councillors' Code of Conduct makes clear that, in taking public office, councillors must accept constraints on their behaviour. It is not enough to avoid actual impropriety. You should at all times avoid any occasion for suspicion and any appearance of improper conduct.
- 2.4 This local code of practice has been prepared to reflect government guidance within the local context of Guildford. It is intended as a guide to councillors and officers to ensure that decisions are taken impartially, without bias and are well founded.

### **3. Planning policies and the Local Plan**

- 3.1 This local code of practice also applies to decisions on development plans, supplementary planning guidance or other policy documents.
- 3.2 Local plans must be positively prepared, justified, effective and consistent with national policy in accordance with section 20 of the Planning and Compulsory Purchase Act 2004 (as amended). Decisions must be taken in accordance with the provisions of the Development Plan and councillors must vote in accordance with it unless there are mitigating material considerations.

### **4. Applicability of the Code**

- 4.1 This code of practice is intended to be a guide for councillors and officers as to the conduct expected of them on matters relating to planning in the Borough.
- 4.2 Councillors and others to whom this code applies must make their own judgments as to its application to specific planning matters, including individual planning applications. In most cases, its applicability will be clear. If any councillor is in doubt, they should seek advice from the Monitoring Officer. However, the final decision must be for the councillor to determine.

### **5. Breaches of the Code**

- 5.1 A breach of the code is a serious matter and, although usually not amounting to a breach of the criminal law, may incur an adverse report from the Local Government Ombudsman and/or action under the Councillors' Code of Conduct.

### **6. Training**

- 6.1 The Council requires that all councillors receive an introduction to planning training session when they are elected. It is important for all councillors, not only those sitting on the Planning Committee, to receive this training as some complex applications can be referred to full Council for determination. No member or substitute member of the Planning Committee shall be permitted to sit on the Committee as a decision-maker unless they have completed the introduction to planning training session.

- 6.2 For those members sitting on the Planning Committee further training sessions are delivered regularly. It is important that members and substitute members attend all training sessions so that any risk for the Council is kept low and the local community can be reassured that those determining Planning matters have the knowledge to be able to do so.
- 6.3 Members of the Planning Committee or substitute members who are absent when training is delivered must ensure they view the training recorded on the webcast to familiarise themselves with the training provided.
- 6.4 All councillors will receive training on the Councillors' Code of Conduct to remind them of the responsibilities of public office and remind them to review their register of interests regularly.

## **7. Role of the Councillor**

- 7.1 Councillors and officers have different but complementary roles. Both serve the public, but councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole.
- 7.2 The Court of Appeal has held that Planning Committees are not acting in a judicial or quasi-judicial role when deciding planning applications but "in a situation of democratic accountability". Planning Committee Members **must** therefore:
1. act fairly, openly and apolitically;
  2. approach each planning application with an open mind, avoiding pre-conceived opinions;
  3. carefully weigh up all relevant issues;
  4. determine each application on its individual planning merits;
  5. avoid undue contact with interested parties;
  6. ensure that the reasons for their decisions are clearly stated and
  7. consider the interests and well-being of the whole borough and not only their own ward.
- 7.3 The above role applies also to councillors who are nominated as substitutes to the Planning Committee. Equally, the conduct of members of any working party or committee considering planning policy must be similar to that outlined above relating to the Planning Committee.

## **8. Role of the Planning Officer**

- 8.1 Officers advise councillors and the Council and carry out the Council's work. A successful relationship between councillors and officers will be based upon mutual trust, understanding and respect of each other's positions.
- 8.2 Planning officers advise councillors impartially on planning policy and planning applications. They will:
1. provide professional, objective and comprehensive advice;
  2. provide a clear and accurate analysis of the issues;
  3. advise on the development plan and other material considerations;

4. give a clear recommendation; and
5. implement the Committee's/Council's decisions (including those made by officers under powers delegated to them).

## **9. Role of the Monitoring Officer (or representative)**

9.1 The Monitoring Officer will give clear, impartial, and objective advice to councillors:

- on legal issues arising out of the conduct of the Committee's functions; and
- regarding the implementation of the Committee's decisions and proposed courses of action

9.2 The Monitoring officer will implement the Committee's/Council's decisions so far as they require the completion of any legal agreements, institution/defence of any proceedings, issuing of notices etc.

9.3 The Democratic Services and Elections Manager (or representative) will also give clear, impartial, and objective advice to councillors as necessary on administrative issues arising out of the conduct of the Committee's functions.

## **10. Disclosure and Registration of Interests (see also Annex 1)**

### **Disclosable pecuniary interests (DPIs).**

10.1 A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property). Councillors, or their spouse/partner, with a DPI in relation to any item on the Planning Committee agenda, may not speak on that item and should absent themselves from the debate and the vote. There is clear guidance in the Councillors' Code of Conduct on what constitutes a 'disclosable pecuniary interest'. The Council has a publicly available register of councillors' interests, a copy of which is also available for inspection on the Council's website: [Your Councillors - Guildford Borough Council](#).

### **Non-pecuniary interests**

10.2 If a councillor has a non-pecuniary interest they must declare it at the meeting, but they may speak on the item and need not absent themselves from the debate or the vote. Councillors should check with the Monitoring Officer if they are in any doubt. A non-pecuniary interest is an interest that may, in the mind of a reasonable observer, affect a councillor's objectivity or judgement of the public interest. Examples of non-pecuniary interests include, but are not limited to:

- (a) membership of organisations to which the councillor has been appointed or nominated by the Council and in which the councillor holds a position of general control or management, or
- (b) membership of, or holding a position of general control or management in, any body
  - that exercises functions of a public nature;
  - that is directed to charitable purposes; or
  - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

10.3 It is very important that councillors disclose any interests they may have in particular schemes at the earliest opportunity. This requirement relates to individual planning applications and planning policies and proposals, which are being developed in development plans, supplementary planning guidance or development briefs.

10.4 Interests must be disclosed by councillors before the Committee discusses the item concerned. Such disclosures are usually taken at the start of the meeting and are recorded in the minutes.

#### **Officers' interests**

10.5 It is also important for officers to disclose interests in writing to their Joint Executive Head of Service /Joint Strategic Director, if they consider that those interests might affect their objectivity. In such circumstances, officers shall take no part in any decision-making process which relates to or affects those interests.

10.6 The Council also holds a register of officers' interests, which is not available to the public.

#### **Gifts and Hospitality**

10.7 The Councillors' Code of Conduct sets out rules on acceptance of gifts and hospitality by councillors. There is also guidance for officers and a hospitality register is held within directorates.

### **11. Predisposition, Predetermination or Bias**

11.1 It is entirely permissible for Committee Members, who are democratically accountable decision makers, to be predisposed towards a particular outcome. Nonetheless, they must address the planning issues before them fairly and on their individual merits. That means they can have a view on the application but must not make up their minds on how to vote before formally considering the application, listening to the officer presentation, any representations and the full debate. Committee Members must have an open mind to the merits of a proposal before it is formally considered at the Committee meeting and they must be prepared to be persuaded by a different view in the light of any detailed arguments or representations concerning the particular matter under consideration.

### **12. Limiting discretion**

12.1 Councillors being involved with a matter that they will later be called upon to take a decision on as a member of the Council can limit their discretion.

12.2 Pressure is sometimes put on councillors to comment on a matter before the meeting, either in the press or on social media. Councillors should not put themselves in a position where it appears they have already taken a view. Councillors should always say that they will consider all the facts and take a decision based on the merits of the case presented.

### **13. Members of more than one tier of local government**

13.1 Provided a member of the Planning Committee has not acted at parish or county level, in so far as they will have predetermined the matter, then they may remain in

the Committee meeting to speak and vote.

13.2 Councillors serving on other councils may reserve their right to change their position when more information is provided at the Planning Committee meeting. More information may become available in the Planning Officer's report, which will include all representations.

#### **14. Development proposals submitted by the Council, councillors and officers**

14.1 Planning applications submitted by individual councillors or officers will be determined by the Planning Committee and not under delegated powers in order to maintain propriety and transparency.

14.2 Any councillor submitting a planning application is likely to have a disclosable pecuniary interest and must follow the guidance set out in the Councillors' Code of Conduct.

14.3 Aside from minor Council applications, which can be approved under delegated authority proposals for the Council's own development will be treated with the same transparency and impartiality as those of private developers.

14.4 The Council has a corporate duty to ensure that:

- (i) Its development management functions are undertaken by identified persons provided with the necessary resources and acting impartially and objectively;
- (ii) any person acting or assisting in the handling of a planning application is prevented from being involved in promoting or assisting in the promotion of the application and/or the development; and
- (iii) any person involved in promoting or assisting in the promotion of the development is prohibited from giving any instructions to, or putting any pressure upon, any person acting or assisting in the handling of the planning application, or from attempting to do so.

14.5 It is recognised good practice to ensure that portfolio holders do not sit as members of the Planning Committee given the potential conflict of interest that is likely to exist in respect of applications in respect of the Council's own developments or developments which directly affect the Council's land or property.

#### **15. Lobbying and Negotiations**

15.1 Lobbying is usual during the planning process and those affected by an application will seek to influence individual councillors and the Planning Committee. Councillors should expect to be contacted in this regard and should listen to all views.

15.2 Councillors may offer advice, for example suggesting to those lobbying that they write to the planning officer or register to speak at the Committee but should take care when being lobbied that any comments they make do not give the impression that they have predetermined the matter. Instead, they should make it clear that they will not make a final decision until they have heard all of the arguments at the Committee meeting.



- 15.3 Political group decisions must not be taken on planning applications and related matters and councillors should not lobby one another or agree with one another on how to vote.
- 15.4 Councillors should adhere to the Protocol on Councillor/Officer Relations at all times and should not attempt to influence or to apply pressure to officers in any way. (If a councillor is concerned about the recommendation or the advice a case officer is giving, the Joint Executive Head of Planning Development or the Joint Strategic Director (Place) must be informed immediately.)
- 15.5 Councillors on the Planning Committee may receive correspondence from the public asking them to reject or grant an application. If the correspondence is received before the officer has completed their report, the councillor should direct the author to submit their representations via the website: [Search for information about a planning application - Guildford Borough Council](#).
- 15.6 If the correspondence is received after the officer has completed their report and before the Planning Committee meeting sits, the councillor should forward the correspondence to the Planning Committee's Democratic Services Officer, who will forward to the whole Planning Committee and the relevant planning officer(s).
- 16. Pre-Application Discussions including Planning Performance Agreements (PPAs)**
- 16.1 Pre-application discussions with potential applicants are an essential part of the planning process and help identify problems and address issues before the submission of an application. They can also be used to identify the right means of engagement before and during the application process. Such discussions are led by officers and the Council has a paid pre-application advice service and PPA service in place to ensure all discussions take place correctly. Councillors should be cautious of being approached in an attempt to circumvent this normal process. If any enquiries are received about obtaining pre-application advice, the Councillor should direct the enquirer to the Council's website: [Apply for our pre-application advice - Guildford Borough Council](#). Pre-application advice is confidential until the submission of an application and the applicant's consent must be gained before disclosing the advice. If a Councillor takes part in the pre-application process, they must be mindful of this confidentiality.
- 16.2 If a potential applicant requests a meeting with a Councillor, either before or after a pre-application enquiry has been made, the Councillor should contact officers before agreeing. The officer will advise whether a meeting at this stage is appropriate. If a meeting does take place as a matter of course an officer should be present. These should generally be in exceptional circumstances so as not to undermine normal pre-application discussions and to ensure good use of officer and Councillor time.
- 16.3 For large scale development proposals, it is appropriate to include relevant Councillors; however, this will normally be a briefing from officers rather than as direct engagement with the developer. Initially it will be for the officer to determine whether this briefing should take place.

- 16.4 As part of the pre-application advice process on larger developments a [Design Review Panel](#) process is also offered. This comprises design experts who are independent from the Council, more information on this process is available online. Relevant ward councillors would be invited to attend that review.
- 16.5 There should be a record of any meetings which take place. It should be agreed ahead of the meeting who will be responsible for taking notes/records (applicant/officer/ councillor etc). Before being finalised, those notes should be circulated to attendees to ensure transparency. A copy will then be placed on the pre-app file for record.
- 16.6 Occasionally, a third party may make a request to make an informal presentation to councillors on development proposals that do not form part of any formal planning application, and which do not fall within the formal Application or Pre-Application process. The Council has adopted a protocol to establish clear guidance to third parties and the Council in respect of such requests, and to promote an environment of openness and transparency. The protocol is attached as **Annex 2**.

## 17. Publicity

- 17.1 There are statutory requirements in place around advertising planning applications dependent upon the type of application received these are primarily set out in the Development Management Procedure Order:
- [The Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2015/595/contents/made).  
<https://www.legislation.gov.uk/uksi/2015/595/contents/made>
- 17.2 The Council will publish how it will carry out its duties to publicise applications in the Statement of Community Involvement which can be accessed on the Council's website:
- [Find out how we involve the community in our policies - Guildford Borough Council](https://www.guildford.gov.uk/sci). <https://www.guildford.gov.uk/sci>
- 17.3 Interested parties will have up to 21 days to respond with the exception of 'permission in principle' applications, where interested parties only have 14 days in which to respond. The Council cannot determine an application until this period has expired.
- 17.4 If an application is amended, the case officer will consider whether the extent of the changes requires a 're-consultation' and will determine the length of time, this will not normally be less than 7 days.
- 17.5 Anyone can respond to a planning application regardless of whether they have been formally notified. All comments received are made public as part of the planning application process (although sensitive information is redacted online)
- 17.6 Comments on an application should be made via the Council's website: [Search or comment on a planning application - Guildford Borough Council](https://www.guildford.gov.uk/commentonaplanningapplication)  
<https://www.guildford.gov.uk/commentonaplanningapplication> where progress of the application can also be tracked.

If that is not possible, comments may be submitted by email to: [planningenquiries@guildford.gov.uk](mailto:planningenquiries@guildford.gov.uk) or by letter to the Joint Executive Head of Planning Development.

17.7 The purpose of this process is to seek people's views on the application. It is not possible to respond to individual written representations or enter into correspondence.

17.8 The number of representations received can affect whether an application is referred to Planning Committee (see paras 18.2 and 18.3 below).

## **18. Planning Applications**

18.1 All planning applications are determined either under delegated powers by officers or by the Planning Committee.

18.2 Planning applications are designated by statutory classes set out by regulation and these fall into three main categories:

- Major applications
- minor applications
- householders and others (these include listed building consent and advertisement consent applications)

### Major development

- 10+ dwellings/over half a hectare/buildings exceeding 1000 sq. metres
- Office/light industrial – 1000+ sq. metres/1+ hectare
- Retail – 1000+ sq. metres/ 1+ hectare
- Gypsy/traveller site – 10+ pitches
- Site area exceeding 1 hectare

### Minor development

- 1-9 dwellings (unless floor space exceeds 1000 sq. metres or the site area exceeds half a hectare)
- Office /light industrial - up to 999 sq. metres/under 1 hectare
- General industrial – up to 999 sq. metres/under 1 hectare
- Retail – up to 999 sq. metres/ under 1 hectare
- Gypsy/traveller site – 0-9 pitches

18.3 Planning applications are referred to the Planning Committee in the following cases:

- where the number of representations contrary to the officers' recommendation received triggers the public speaking requirements at Planning Committee (as set out in Public Speaking Procedure Rules in the Council's Constitution):
  - for all householder and other applications: 10 representations
  - for all Major and Minor applications: 20 representations;
- all major applications submitted by Guildford Borough Council;
- when a councillor or a Council employee has submitted an application, or when the applicant is related to a councillor or council employee;
- when a Joint Strategic Director asks the Committee to decide; or
- when a councillor refers an item to planning committee for planning reasons.

- 18.4 Councillors are notified of all planning applications within their wards via the weekly lists. Councillors' comments received will be taken into account in determining the application; however, councillors who are members (or substitute members) of the Planning Committee should not provide a clear opinion either way at this stage as it could prejudice their ability to vote on the matter should it come before the Committee. At any point prior to the Committee meeting, should councillors wish to give an opinion, they are advised to state that this is their opinion based upon the information currently available, which may change in the light of additional information. Councillor comments are kept on file.
- 18.5 Under the Council's Constitution, there is the ability to refer planning applications to full Council for consideration. In those circumstances, this code of practice would equally apply to consideration of such applications by all councillors (see Council Procedure Rule 26 (c)).
- 18.6 In addition to planning applications, the Council also deals with other types of applications which are not subject to referral to Planning Committee as they deal with matters of fact rather than planning policies and/or are subject to determination deadlines which can result in 'deemed' consent being granted. These include:
- certificates of lawful development/use (existing and proposed)
  - applications for prior approval or prior notification

## **19. Councillor 'call-up' to Planning Committee (see Annex 3)**

- 19.1 Councillors should use call up powers responsibly. There are likely to be many applications where Councillors may disagree with part of the recommendation. However, applications should only be referred to Planning Committee where there are strong planning grounds to do so. Referrals should not take place because an alternative development would be preferred or because of prior conduct of the applicant (including because the application is retrospective). By getting involved at an early stage, councillors can have their opinions and suggestions considered by officers and there is the opportunity for discussion.
- 19.2 The process for councillors to refer applications to the Planning Committee is set out in **Annex 3**.
- 19.3 Exclusions to this process are all Lawful Development Certificate applications; Prior Approval applications; Section 211 notifications (Trees in Conservation Areas), and Statutory Consultations from other authorities including Surrey County Council.
- 19.4 The officer report is confidential until it is published on the Planning Committee agenda, if it is referred to Committee, or until the application is determined under delegated powers, and must not be shared or forwarded to the applicant, agent, Parish Council, or third parties before this.
- 19.5 If, in the opinion of the Joint Executive Head of Planning Development and/or the relevant Joint Strategic Director, a call up request is not based on planning grounds then the request can be refused; however, officers will always explain their reason to the relevant Councillor.

19.6 Councillors who have exercised call-up will normally be expected to speak to the item when it is considered by the Planning Committee provided that, in the case of Planning Committee members, they have not demonstrated a predetermination.

## **20. Site Visits by Planning Committee members**

20.1 Committee site visits may be conducted either before the meeting of the Planning Committee at which the application is to be determined following a request by a councillor, or the Committee may decide at the meeting to conduct a site visit. However, there may be circumstances where the Joint Executive Head of Planning Development considers the application to be of sufficient scale/importance that a site visit should be arranged irrespective of any request by Councillors. All formal site visits should follow the provisions of the Site Visit Protocol set out below.

### **Pre-Committee meeting Site Visits requested by a councillor**

20.2. Pre-Committee meeting Site Visits assist with the debate at the meeting and avoid further delay to the determination of the application. Such site visits may be initiated on request by a councillor:

- when making a call up request, or
- following the publication of the Committee agenda by detailing their request to the Democratic Services Officer by no later than midday on the Thursday of the week prior to the Planning Committee meeting.

20.3 The request for a site visit is discussed in liaison with the Chairman of the Planning Committee and Joint Executive Head of Planning Development at the Chairman's Briefing (which is generally held in the afternoon on the Thursday prior to the Planning Committee meeting). If the Chairman and Joint Executive Head of Planning Development agree the request for a site visit, the Democratic Services Officer will confirm the site visit details with the Planning Committee members and the applicant.

20.4 Pre-Committee meeting site visits are scheduled to be held on the Tuesday, the day before the Planning Committee meeting commencing at approximately 9:30am.

### **Site Visits agreed by the Committee**

20.5 Site visits can also be requested at a Planning Committee meeting. Reasons should be given as to why a Pre-Committee meeting site visit was not requested. Councillors must be mindful of the delay such a deferral will cause to the application and the implications, including possible appeal against non-determination. If the request is supported by the Committee, the application will stand deferred to enable a site visit to be scheduled at an agreed date and time. The Democratic Services Officer will confirm the site visit details with the Planning Committee members and the applicant.

20.6 The Committee minutes will show the planning reasons for the decision to hold a site visit.

## **Site visit protocol**

- 20.7 In all cases site visits should only be held in circumstances in which it is not possible for councillors to make an informed decision on the application without seeing the site for themselves. Examples of such circumstances include:
- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers
  - the comments of the applicant and objectors cannot be expressed adequately in writing
- 20.8 Site visits are generally not appropriate in cases where purely policy matters are at issue.
- 20.9 A planning officer and the Democratic Services Officer will attend all formal site visits.
- 20.10 Site visits are:
- fact finding exercises.
  - not part of the formal consideration of the application and, therefore, public rights of attendance and speaking by applicants and objectors do not apply.
  - to enable officers to point out relevant features.
  - to enable councillors to ask questions on site for clarification. However, discussion on the merits of the application will only take place at the Planning Committee meeting when all parties will be present.
- 20.11 Councillors should not allow themselves to be addressed by individual parties, members of the public or applicants at formal site visits.
- 20.12 The Chairman of the Committee or, in their absence, the Vice-Chairman must maintain control over the conduct of the site visit which, whilst not part of a formal meeting of the Planning Committee, must be conducted as a single meeting and in an orderly fashion.
- 20.13 Planning Committee members who are unable to attend a formal site visit may, if they wish, visit the site informally but should be mindful of the provisions of the Site Visit protocol. Any councillor who may visit the site alone is only entitled to view the site from public vantage points and has no individual rights to enter private property. If alone, it is not good practice to enter the site if invited by the owner, as this can lead to the perception that the councillor may no longer be impartial.

## **21. Planning Committee**

- 21.1 The Planning Committee is made up of 15 borough councillors. A number of other councillors are named as substitute members of the Committee.
- 21.2 Planning Committee meetings are held in the Council Chamber, and usually take place every four weeks on a Wednesday evening beginning at 7pm. Sometimes there are special meetings to discuss major or strategic applications.

- 21.3 Agendas are published on the Council's website five clear working days before each meeting.
- 21.4 Any member of the public can attend Planning Committee meetings and listen to the discussions about applications and other matters on the public part of the meeting agenda.
- 21.5 The Planning Committee makes decisions on about 5% of the planning applications the Council receives. The Joint Executive Head of Planning Development decides all other applications under delegated powers.
- 21.6 All meetings are open to the public (s100 Local Government Act 1972). Where there are aspects of a matter which are required to be dealt with in private, the Committee may pass a resolution to exclude the public from the meeting (s100A(4) LGA 1972). That resolution must identify the matters to which it refers and state the description of the "Exempt Information" under the relevant paragraph(s) of Part 1 of Schedule 12A to the LGA 1972.
- 21.7 Unless otherwise decided by a majority of councillors present and voting at the meeting, all meetings shall finish by no later than 10.30pm. Any outstanding items not completed by the end of the meeting shall be adjourned to a reconvened meeting or the next ordinary meeting of the Committee.

#### **Procedures for dealing with planning applications at Planning Committee**

- 21.8 Councillors (who are not Planning Committee members) who wish to speak on a planning application on the agenda, whether the site is inside or outside of their ward, may do so with the consent of the Chairman of the Committee. They must register their wish to speak with the Democratic Services Officer by midday on the day prior to the Planning meeting and, if speaking in that capacity, cannot attend the meeting as a substitute.
- 21.9 Committee members wishing to speak for or against an application may for that item step away from the committee and speak from the seat allocated to ward councillors when they address the Committee but shall not be entitled to speak for more than three minutes. They shall then leave the chamber until the conclusion of that item. No substitute shall be allowed for that item.
- 21.10 Each speaker, including councillors or members of the public, may address the Planning Committee for a maximum of three minutes. In exceptional circumstances, the chairman can agree to speakers having longer than three minutes to address an item. An example of this would be a strategic site with multiple and complex issues.
- 21.11 Under Council Procedure Rules, the Chairman has the right to decline to hear anyone behaving improperly at the meeting.
- 21.12 No additional written evidence or information such as photographs, plans or models may be circulated at the meeting.
- 21.13 The procedure to be adopted in circumstances where the Committee wish to overturn the officer's recommendation is contained in **Annex 4**.

21.14 Officers might occasionally defer an application following publication of the agenda.

21.15 The Planning Committee might defer an application at the meeting. A motion may be proposed and seconded at any time during the debate to defer or adjourn consideration of an application. The Committee will do this if they run out of time to discuss it fully, if members feel additional information is required, or if they would like to make a formal committee site visit. In most situations, they will not defer an application until all speakers have spoken about it at a meeting.

21.16 If the Committee defers an application, and there has already been public speaking on this item at a meeting, there will be no further public speaking on it when it is discussed again by the Committee. However, the comments of speakers from the first meeting will be fully summarised in the updated report.

21.17 Councillors, objectors, the applicant and (where relevant) parish councils will be notified when an application is coming back to the Planning Committee following deferral.

## **22. Councillor behaviour in committee meetings**

22.1 Councillors and officers will afford courtesy and respect to one another, and to all of those attending committee meetings and/or making representations.

22.2 Councillors will not pass notes in any format between themselves or others during the meeting.

22.3 Committee members and substitute members will not deliver pre-prepared speeches in support of, or in opposition to, any application giving the impression that they have pre-determined their decision.

22.4 It is considered acceptable for Committee members and substitute members to have prepared bullet points for any contributions they may make in advance of a meeting.

## **23. Webcasting**

23.1 All Planning Committee meetings will be webcast. Webcasts of meetings will be suspended in circumstances where the Committee considers confidential or exempt information during the consideration of any matter.

## **24. Reports containing confidential or exempt information**

24.1 Reports or sections of reports published on pink paper marked "Restricted" will be subject to confidentiality and may not be viewed or shared with any other person outside of the Council.

24.2 On occasion, owing to the sensitivity of a matter, the confidential item will only be handed out in hard copy at the meeting itself. Councillors will be given sufficient time to read through the report prior to debating the item and coming to a conclusion.



24.3 Councillors must ensure that their private papers are handed back to the Democratic Services Officer at the end of the consideration of that item. This is essential so that the papers can be confidentially shredded.

**25. Public Speaking at Planning Committee (see Annex 5)**

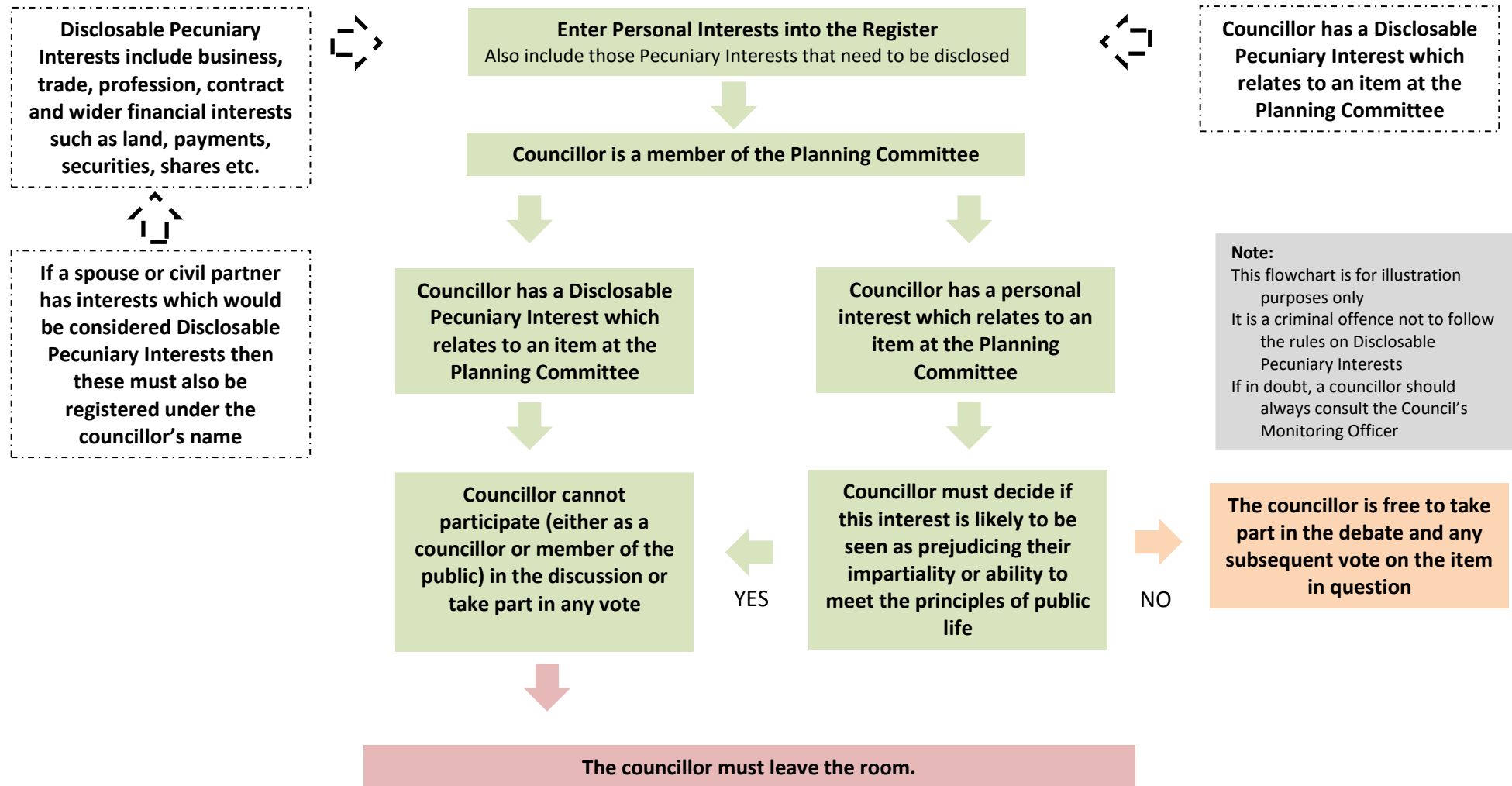
25.1 The Guide to Planning Committee Meetings, which deals with public speaking at Planning Committee Meetings, is attached as **Annex 5**.

**26. Councillor representations on appeals against planning decisions**

26.1 Where a councillor wishes to support an appellant on any appeal against a Council decision on a planning matter, that councillor shall give written notice of his or her intention to the Monitoring Officer and Executive Head of Service, as well as the appellant. Where the appeal is to be dealt with at an inquiry, the written notice shall be delivered not less than five working days before the start of the inquiry.

26.2 Councillors proposing to support an appellant at an appeal must in addition make it clear to the planning inspector that they are appearing in their personal capacity and not as a spokesperson for the Council.

## Annex 1: Councillor interests



## **Annex 2: Protocol for informal presentations to councillors relating to development**

A protocol to clarify the role of third-party informal presentations to the Council and to provide guidance to third parties and councillors on attending such informal presentations that **do not form part of any formal planning application, and which do not fall within the formal Application process and Pre-Application process.**

In the event of conflict between this protocol and the Councillor Code of Conduct or the Councillors' Handbook, (**the Codes**) the Code/Handbook shall take precedence.

### **PROTOCOL**

#### **Scope**

1. This protocol covers any request made by a third party to make an **informal presentation** to councillors. A third party may also include the Council when acting as a developer, and/or landowner.
2. This Protocol seeks to establish clear guidance to third parties and the Council in respect of requests for and the presentation of third-party informal presentations to councillors, and to promote an environment of openness and transparency.

#### **Informal Presentation Request**

3. A request by a third party to make an informal presentation of information shall be made in writing to the relevant director setting out the reason(s) for the proposed presentation, the subject matter, and any other relevant information.
4. The director may agree or refuse the request or may agree to elements of the proposed presentation. Alternatively, the director may refer the request to the Executive or lead councillor (as appropriate to the proposal) together with any advice from the Monitoring Officer, to agree or to refuse the request or to agree to elements of it.

#### **Refusal of Request**

5. When a request is refused, the relevant director taking that decision will set out the reasons for the refusal, and provide the decision and reasons to the third party. A copy of the refusal decision and reasons will also be sent to the portfolio holder(s)/Lead Councillor(s) for Planning Development and Regeneration.

#### **Acceptance of Request**

6. The relevant director shall provide a copy of this protocol to the third party with the decision that the informal presentation may proceed.

#### **The Presentation**

7. When a request is agreed the informal presentation shall proceed in accordance with the following rules:

##### The third party

- 7.1 The third party will:
  - a. arrange the platform/venue and time of the meeting, at no cost to the Council. The date and time to be agreed by the relevant director. Presentations will, generally, be convened in the evening and recorded wherever possible for those councillors that are unable to attend.

- b. provide any presentation materials to the relevant director at least **5 working days** in advance
- c. invite all councillors via email: [councillors@guildford.gov.uk](mailto:councillors@guildford.gov.uk)
- d. keep a record of attendance at the presentation.
- e. ensure notes of what is said at the presentation are taken and circulated to the relevant director for comment within 5 days of the presentation and once agreed will share them with all councillors.
- f. ensure that the presentation is for information purposes only and will not lobby any councillor(s) for support.

### The Council

#### 7.2 The Council will:

- a. distribute any presentation materials to Councillors at least **2 working days** in advance of the informal presentation.
- b. ensure that at least one planning officer and one senior officer, from the Joint Management Team, shall be present during the informal presentation.
- c. ensure that no councillor will be involved in making a presentation as a representative of the third party or otherwise.
- d. require all councillors to disclose any interests in the matter, in accordance with the Councillors' Code of Conduct, before the presentation starts, and all disclosures made will be recorded as part of the notes referred to in (7.1 (e)) above.

### All parties

#### 7.3 All Parties will:

- a. ensure that all those present understand that the presentation does not form part of the Council's decision-making process and that the process of debate and determination of any matter arising will be undertaken in accordance with the Council's normal procedures.
- b. ensure that those present understand that Councillors may ask questions for clarification purposes. Should any view(s) be expressed by any councillor(s) at the informal presentation, it will not bind them, nor the Council, to any decision in respect of any subsequent planning application that may be submitted in respect of the development proposal.

This Protocol is to be reviewed on or before two years of the date of its adoption.

### **Annex 3: Process for Councillor ‘call-up’ to Planning Committee**

Applications to be included in this process:

- All planning applications, including S.73 applications
- Listed building consent applications
- Advertisement consent applications
- Tree Work Applications for trees subject to a TPO

Applications excluded from this process:

- Lawful Development Certificate applications
- Prior approval applications
- Section 211 notifications (Trees in Conservation Areas)
- Consultations from other authorities

#### **Process**

Upon validation of relevant applications, they will be included on the weekly list of planning applications. Councillors will have 21 days from the date of publication of the weekly list to submit a committee referral.

Councillors will be requested to make one of the following responses:

- No comments
- I have concerns/see potential benefits (these must be planning considerations, directly related to the applications) and would like the application referred to committee. Please indicate planning concerns/benefits:.....  
.....
- I consider that due to the specific circumstances/scale of the development it will have wide ranging planning implications and I would like the application referred to committee. Please specify the nature of the wide-ranging implications:.....  
.....
- I do not wish to refer the application to Committee, but I would like the following comments/suggestions for conditions taken into consideration:  
.....  
.....

Where there is more than one Councillor representing a ward, all the ward councillors are able to comment.

Response to be sent via email directly to the case officer and copied to PlanningEnquiries@guildford.gov.uk to ensure that it is recorded on the file and not missed due to officer absence. The request will be detailed in the officer's report.

Where comments are raised that are NOT material planning considerations the case officer will advise the Councillor of this before drafting the report.

#### Determination/referral to Committee

The referral of the application MUST have regard to the Councillor(s) response and the following scenarios may occur:

- Where "No comments" are specified; or where no councillor response is received, the application will proceed under delegated powers. No further councillor contact required.
- Where a Councillor has made a comment the case officer will include it in the delegated report and notify the Councillor.
- Where the Councillor response is a request to refer to Committee. Their request will be referred to in the committee report. Should the application be amended, the officer will notify the Councillor to see whether their request stands.

All requests for referral to Planning Committee will be subject to ratification by the Chairman of the Planning Committee and Executive Head of Service (or Strategic Director). The draft agenda will be shared with the Chairman who can comment at that point on any of the Member referrals.

Before the case officer writes the committee report, they shall contact the councillor to indicate what their recommendation on the application is likely to be and the reasons for it. This would enable the councillor to consider whether they still wish to call-up the application to Committee.

Notes:

- (1) A councillor who has requested an application to be called-up to Committee may, following further consideration, withdraw that request.
- (2) These referral measures do NOT affect the automatic thresholds for Committee referrals i.e. number of representation letters received.

#### **Reporting**

Management information should be produced to facilitate reviews of the process. Subject to system constraints, the following information should be produced every 12 months and should include a comparison with the previous 12 months:

- Number of applications decided in the period
- Number and percentage of applications referred to the committee
- Number and percentage of referrals overturned by the committee
- Number and percentage of overturns upheld at appeal

## **Implementation**

The new process will require changes to functionality of the current planning IT system. However, the new process will be implemented as soon as possible

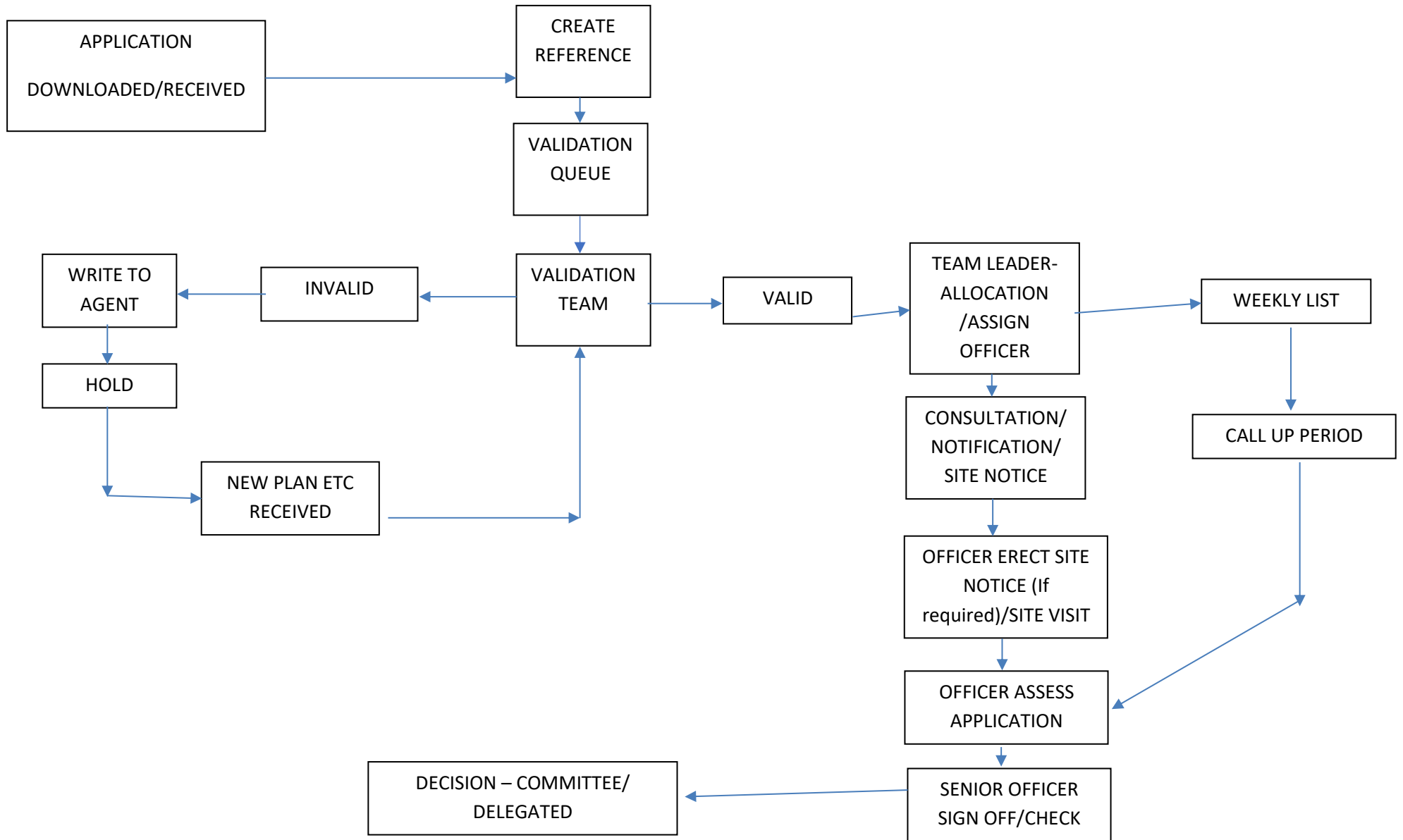
## **Reviewing**

A review of this process shall be carried out after the first 12 months of operation following its adoption, or sooner if sufficient cause is identified by the Executive Head of Service following consultation with the Chairman and Vice Chairman of the Planning Committee. Any such review should seek views from officers and Councillors over the operation of this process. It should also look at the management information and compare with the previous system.

It is intended that this should offer a flexible framework and be adaptable. If issues arise which do not fundamentally alter the concept, then these operational changes should be put in place to allow for efficient working.

Longer term reviews of delegated processes should be undertaken at least every 24 months, led by the Executive Head of Service, in consultation with the Chairman of the Planning Committee. Officers should also seek the views of members during such a review.

## Application Journey





#### **Annex 4: Procedure for councillors overturning officer recommendations at the Planning Committee**

If, during the debate on an application, it is apparent that Committee members do not support the officer's recommendation, the Chairman shall ask if any Committee member wishes to propose a motion contrary to the officer's recommendation, subject to the proviso that the rationale behind any such motion is based on material planning considerations. Any such motion must be seconded by another Committee member.

- Where such a motion proposes a refusal, the proposer of the motion shall be expected to state the harm the proposed development would cause in planning terms, together with the relevant planning policy(ies), where possible, as the basis for the reasons for refusal. In advance of the vote, the Chairman shall discuss with the relevant officers, the proposed reason(s) put forward to ensure that they are sufficiently precise, state the harm that would be caused, and refer to the relevant policy(ies) to justify the motion. The Committee shall take a separate vote on each proposed reason for refusal, following which the Committee shall take a vote on the motion to refuse the application based on all of the agreed reasons.
- Where such a motion proposes approval, the proposer of the motion shall be expected to state why the proposed development would be acceptable in planning terms, together with the relevant planning policy(ies), where possible. In advance of the vote, the Chairman shall discuss with the relevant officers the proposed reason(s) put forward to ensure that the planning reason for approval is sufficiently precise to justify the motion. In addition, the Committee shall discuss and agree the substance of the planning conditions necessary to grant a permission before taking a vote on the motion to approve.
- Where such a motion proposes deferral, (for example for further information/ advice) the Committee shall discuss and agree the reason(s) for deferring the application, before taking a vote on the motion to defer.

If the motion is not seconded, or if it is not carried, the Chairman will determine whether there is an alternative motion and, if there is not, the Chairman will move the officer's recommendation and ask another Committee member to second the motion. That motion will then be put to the vote.

## Annex 5: Speaking at Planning Committee



GUILDFORD  
BOROUGH

### Guide to Planning Committee meetings



A guide for anyone who would like to:

- **know** how the committee process works;
- **attend** a Planning Committee meeting; or
- **speak** about an application at a Planning Committee meeting.

[www.guildford.gov.uk](http://www.guildford.gov.uk)

## **Introducing this guide**

This guide explains what you need to know if you want to speak at or attend a Planning Committee meeting. You will find this guide useful if you:

- ✦ have applied for planning permission and your application is being considered by the committee;
- ✦ are the neighbour of someone whose planning application is being considered by the committee; or
- ✦ are interested in planning and how the Planning Committee makes decisions.

## ***Attending a Planning Committee meeting***

### **Where do Planning Committee meetings take place?**

Our Planning Committee meetings are held in the Council Chamber, which is in the civic suite of Millmead House. The public entrance to the Council Chamber is signposted in the front car park at Millmead House.

### ***Accessibility at Planning Committee Meetings***

Planning Committee meetings are held in the Council Chamber which is accessed from the main reception up one flight of stairs. The main reception can be accessed via a disability ramp. The Council Chamber is accessible via a wheelchair accessible lift.

A hearing loop is also installed in the Council Chamber for those who are hard of hearing and use hearing aids. Please note that your hearing aid should be set to 'T'.

### ***How often does the Planning Committee meet?***

Planning Committee meetings normally take place every four weeks. Meetings normally are on Wednesday evenings and start at 7pm. Occasionally, there are special meetings to discuss major or strategic planning applications.

For a list of meeting dates please view our website at the following address:

<https://www.guildford.gov.uk/council>

### ***Who can attend a Planning Committee meeting?***

Any member of the public can attend our Planning Committee meetings and listen to the discussions about items on the public part of the meeting agenda.

In certain situations, you can speak at a committee meeting about a planning application you're interested in. If you would like to speak, you will need to arrange this with us before the meeting.

More information about speaking at Planning Committee meetings is given below.

There may be times when the Planning Committee needs to discuss confidential matters that are not on the public part of the agenda. Where this is necessary, the Chairman

will explain this at the meeting, and you will be asked to leave at the point at which the Committee decides to formally exclude the public from the meeting.

The public seating area is at the back of the Council Chamber, next to the public entrance. A layout plan of the Council Chamber is given on the back page of this guide showing the public seating area and where councillors and officers sit.

### **What does the Planning Committee do?**

Our Planning Committee makes decisions on about 5% of the planning applications we receive. All other applications are decided by the Joint Executive Head of Planning Development under delegated powers.

The Planning Committee will make a decision on applications:

- for all householder and other applications, the trigger for Committee will be receipt of 10 written representations\* or more contrary to the officer's recommendation;
- for all Major and Minor applications, the trigger for Committee will be receipt of 20 written representations or more contrary to the officer's recommendation;
- that are major applications submitted by Guildford Borough Council;
- that a councillor or a council employee has made, or when the applicant is related to a councillor or council employee;
- that the Joint Executive Head of Planning Development asks the Committee to decide; or
- that a councillor asks the Committee to decide for planning reasons.

\* NB a "written representation" is defined as one written representation from an individual or organisation but does not include any subsequent representation(s) from the same individual or organisation in respect of the same planning application.

The agenda contains reports compiled by officers, which will include the recommendation along with any conditions or reasons for refusal. The reports are available for Members of the Committee to review prior to the meeting, along with the relevant plans and other information within the file.

Agendas are published five working days before each meeting. The agenda can be viewed on our website: [Browse meetings - Planning Committee - Guildford Borough Council](https://democracy.guildford.gov.uk/ieListMeetings.aspx?Committeeld=130)  
<https://democracy.guildford.gov.uk/ieListMeetings.aspx?Committeeld=130>

Officers will carry out a brief presentation for each item, which may include relevant plans of the development and photographs of the site.

### **Who is on the committee?**

The Planning Committee is made up of 15 borough councillors. A number of other councillors are named as substitute members of the Committee.

Contact details of the members of the Planning Committee can be viewed on our website: [Contact details - Planning Committee - Guildford Borough Council](https://democracy.guildford.gov.uk/mgCommitteeMailingList.aspx?ID=130)  
<https://democracy.guildford.gov.uk/mgCommitteeMailingList.aspx?ID=130>

### **Webcasting Arrangements**

Planning Committee meetings are recorded for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be recorded, except where there are confidential or exempt items, and the footage will be on the website for six months.

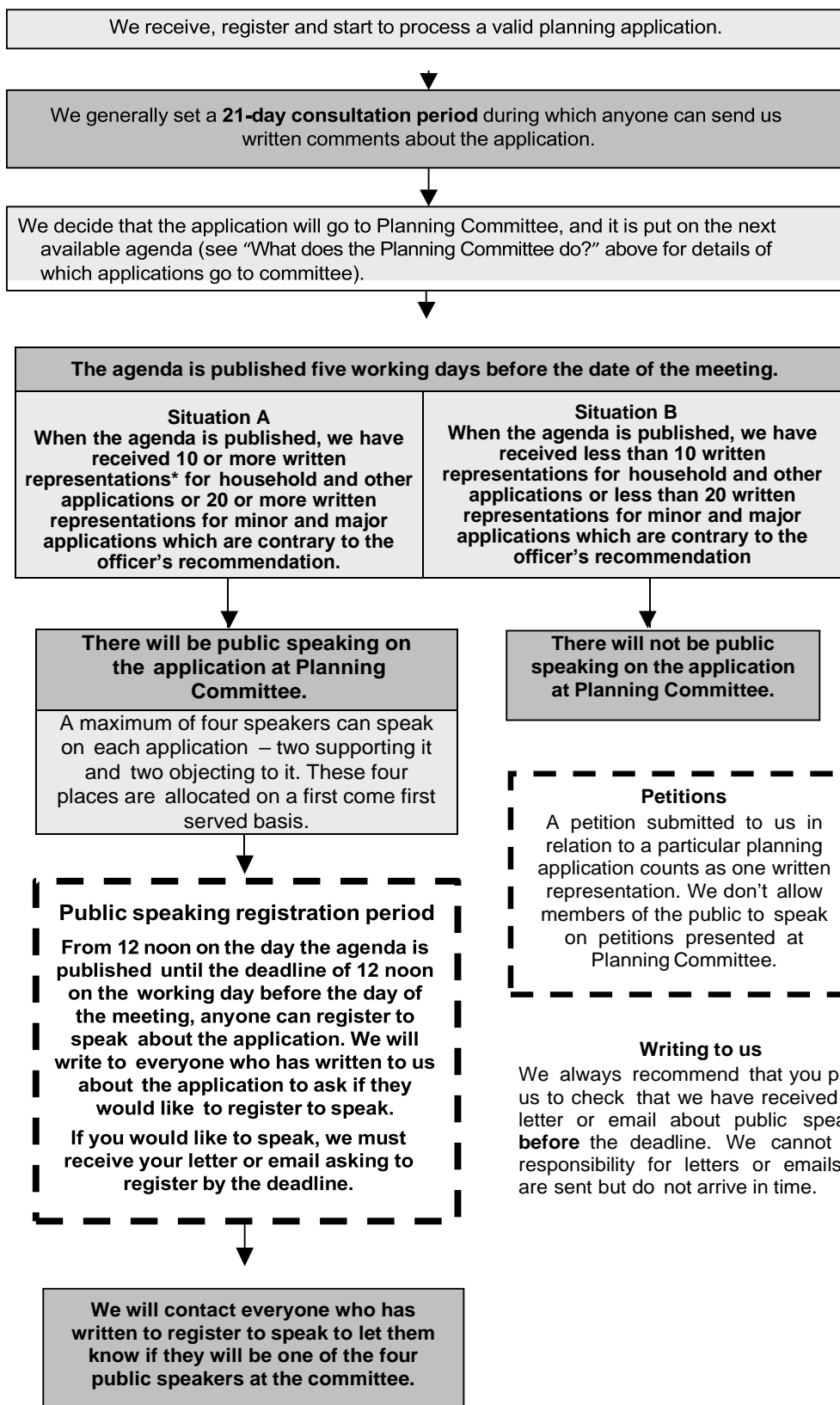
If you have any queries regarding the webcasting of meetings, please contact Committee Services by email on: [committeeservices@guildford.gov.uk](mailto:committeeservices@guildford.gov.uk)

### **The Public's Responsibilities**

Members of the public must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers. Subject to available space, the public are entitled to attend public meetings of the Planning Committee but must comply with the ruling of the Chairman. They may not disrupt the meeting or cause undue disturbance, or they may be removed from the meeting. The display of banners or placards is not permitted in the Council Chamber or anywhere on the Council premises.

### **Speaking at Planning Committee meetings**

The diagram on the following page explains the process for deciding whether public speaking will take place on a planning application being presented to the Planning Committee.



\* NB a "written representation" is defined as one written representation from an individual or organisation but does not include any subsequent representation(s) from the same individual or organisation in respect of the same planning application.

## Registering to speak

If you would like to register to speak on a public speaking item, registration starts at 12 noon on the day the agenda is published, which is five clear working days prior to the meeting. For example, planning committee meetings are normally held on a Wednesday, therefore the agenda is published on the Tuesday the week before. You must write to us or email us by **12 noon on the working day before the day of the meeting**. You must send your email or letter to:

Democratic Services Officer for the Planning Committee  
Guildford Borough Council  
Millmead House  
Millmead  
GUILDFORD  
Surrey GU2 4BB

Email: [committeeservices@guildford.gov.uk](mailto:committeeservices@guildford.gov.uk)

Tel: 01483 444056

### Your letter or email must contain:

- ✎ Your name
- ✎ Your address
- ✎ Your daytime phone number
- ✎ The planning application number
- ✎ The name of the development
- ✎ Whether you want to speak to support or object to the application

### If I write to you about an application, do I have to speak at a meeting?

No, you don't. If we receive a letter or email from you within the 21-day consultation period for the application, we will include a summary of your comments in the Planning Officer's report.

If we receive your letter or email **after the agenda is published but before noon on the working day before the day of the meeting**, the Democratic Services Officer will include a summary of your comments in a document known as the 'Late Sheet'. This is given to councillors and the public at the meeting.

### How many people can speak about each application?

Up to **four** people can speak about an application.

- ✎ Two speakers who **object** to the application.
- ✎ Two speakers who **support** the application.

As there can be no more than four speakers, we will only invite the first two people who write to us objecting to an application, and the first two people who write to us supporting an application to speak at the meeting.

A person can speak to the committee on behalf of others who support or object to an application. If we have written to tell you that you can speak at a meeting, we may pass your details to others who object to or support the application so that they can contact you. If you would prefer us not to pass your details on to others, please let us know.

### **How long can I speak for?**

Each speaker has three minutes to speak. The Chairman will let you know when your three minutes are almost finished. You must make sure you cover all your points in those three minutes. You cannot ask councillors, officers, or other speakers any questions.

You are not allowed to use any presentation equipment when you speak at the meeting. For example, you cannot give a computer presentation or use an overhead projector or a slide projector.

### **Can I hand out information at the meeting?**

No, you cannot hand out any documents (such as plans and photographs) at the meeting and you cannot display any models. If you wish to send in additional documentation, or information, you must do this in advance of the meeting and by no later than 12 noon on the working day before the meeting. This must be sent, preferably by email, to the Democratic Services Officer: [committeeservices@guildford.gov.uk](mailto:committeeservices@guildford.gov.uk)

### **If I am speaking at a meeting, when should I arrive?**

You should arrive in the Council Chamber by 6.45pm. The Democratic Services Officer will introduce themselves and note your attendance.

### **What will happen at the meeting?**

- Everyone who attends the meeting will be given a list of people who have registered to speak at the meeting.
- The committee will first consider the applications for which there is public speaking, in the order on the list of speakers.
- When the Chairman announces the name and number of the application you are interested in a planning officer will give a presentation on it.
- The Chairman will call each of the speakers in turn to go to the public speaking desk at the front of the Council Chamber to have their say.
- When you have finished your speech, you will be asked to return to your seat in the public seating area.
- When all the speakers have been heard, the committee will discuss the application. The public cannot take part in the discussion.
- The committee will make a decision on the application.

If you have registered to speak and you arrive late or don't turn up to the meeting, the committee will still make a decision on the application.

### **What happens if the Committee put off making a decision on an application until a future committee meeting?**

The Planning Committee might sometimes decide to put off making a decision on an



application. This is known as 'deferring an application'. They will do this if they run out of time to discuss it fully, if members feel additional information is required, or if they would like to make a formal committee site visit. In most situations, they will not defer an application until all speakers have spoken about it at a meeting.

If the committee defers an application, and there has already been public speaking on this item at a meeting, there will be **no further public speaking** on it when it is discussed again at committee.

### **What issues should I speak about?**

The Planning Committee can only take into consideration 'planning' issues relevant to the proposed development and cannot consider any other matters in its decision making. Therefore, when you are speaking to the Planning Committee you should focus only on Development Plan (local plan and neighbourhood plan) policies and other material planning considerations relevant to the Planning application that is being decided.

### **What are 'material planning considerations' and how are they determined?**

Material considerations are decided by statements of national Government policy or by decisions of the courts. The following are examples of material planning considerations:

- Development Plan (local plan and neighbourhood plan) policies
- National Planning Policy Framework and other Government planning policy
- Overlooking / loss privacy
- Loss of light / overshadowing
- Effect on listed building
- Layout, density
- Design, materials
- Previous decisions/appeals
- Natural environment
- Flood risk
- Parking
- Highway safety
- Traffic
- Noise
- Disabled access

The following are examples of what are **not** material planning considerations:

- House prices and house insurance
- Personal circumstances
- The applicant - characteristics and conduct
- The strength or volume of opposition / objection
- Loss of a *private* view
- Damage to property or Party Wall Act matters
- Loss of trade
- Boundary disputes or covenants

In making its decision the Committee must take into account the officer's report.

The Committee cannot give weight to non-planning consideration in making a planning decision. The weight that should be attached to each material planning consideration in any particular case is for the Committee to determine as decision maker.

At the meeting

1. Please keep your speech to the subject of the application and material planning considerations. The Chairman will stop you speaking if you deviate from planning issues
2. Please do not make statements of a personal or slanderous nature or be abusive
3. During your speech, you are not permitted to refer to the conduct of officers or councillors or to the manner in which an application has been dealt with. The Council has a separate Complaints Procedure in place to deal with these issues
4. You are also not permitted to make personal comments about individual applicants, objectors, supporters or others involved in an application.
5. Do not interrupt other speakers, or the Committee during the debate
6. The Chairman of the Planning Committee has sole discretion on whether a person can speak or not and retains overall responsibility for the smooth running of the meeting. The Chairman's decision on procedural matters is final and must be adhered to.

If you would like more advice on what is a planning issue, please email [planningenquiries@guildford.gov.uk](mailto:planningenquiries@guildford.gov.uk) or phone planning enquiries on 01483 444609.

For more information about committee meetings and speaking at a Planning Committee meeting, please contact the Democratic Services Officer for the Planning Committee, by emailing [committeeservices@guildford.gov.uk](mailto:committeeservices@guildford.gov.uk), or by phone on 01483 444056.

**The Council Chamber layout for a Planning Committee meeting**

		Senior Solicitor	Democratic Services Officer	Chairman	Planning Development Manager	Planning Officer		
--	--	------------------	-----------------------------	----------	------------------------------	------------------	--	--

Public Speaker												NPCMS
Cllr												Cllr
Cllr												Cllr
	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	

Cllr: Planning Committee Member  
 NPCMS: Non-Planning Committee member speaker

**Committee Room 1 public seating  
 Any other councillors who attend the meeting will sit here**

Please contact us to request this document in an alternative format



## **GUILDFORD BOROUGH COUNCIL**

### **PROTOCOL ON COUNCILLOR APPOINTMENTS TO EXTERNAL ORGANISATIONS**

#### **Introduction**

1. The Council has extensive involvement with a wide range of external partnerships and organisations. Councillors may be informally involved on an individual basis with many organisations including community organisations, sports and recreation clubs, housing associations charitable trusts and companies. This Protocol relates to the formal appointment of councillors to external organisations by the Council. The main objective of these appointments is for the Council to develop positive relationships with local organisations in the interests of the local community.
2. Formal appointments include various roles ranging from advisory to membership of management committees as trustees or as company directors. Some roles will have legal duties and responsibilities which must be properly discharged and which can have implications for the Council as well as for the individuals themselves. Consequently, with any relationship involving external organisations there must be a clear definition of roles, responsibilities and accountabilities. This Protocol aims to assist councillors serving on external organisations to be clear on these matters and includes guidance for dealing with any conflicts of interest between the Council and the external organisations.
3. The main purposes of this Protocol are:
  - (i) to ensure that the Council's and individual councillors' interests are properly safeguarded and represented;
  - (ii) to ensure, whenever a councillor is appointed to an external organisation, that all such appointments are properly authorised, recorded and managed; and
  - (iii) to provide a formal procedure with relevant guidance to appointees.

#### **Existing Guidance for Councillor Appointees**

4. The matter of councillors' conduct is addressed by the Council's own local code of conduct ("the Councillors' Code"), which was adopted by the Council pursuant to Section 27 of the Localism Act 2011. The Councillors' Code appears in Part 5 of the Council's Constitution and covers matters of propriety in office, the acceptance of gifts and hospitality and rules relating to disclosable pecuniary interests. The Councillors' Code does not directly address the matter of any conflict between the interests of the Council and those of the external organisation to which a councillor has been appointed. An appointment to an external organisation does not necessarily mean that the councillor will be representing the Council's interests on that external organisation. Indeed, a councillor appointed by the Council to a decision making role in an external organisation (for example, as a director of a company or as a trustee) has a duty to act in the best interests of the organisation notwithstanding a conflict between these interests and those of the Council. This may mean, in some instances, that a councillor cannot participate in a decision of the Council which affects or relates to that external organisation. Importantly, when acting for the other organisation, the appointee has no power to commit the Council to any particular course of action: their role is to exercise independent judgement when deciding issues and to contribute to the decision-making of the other organisation, not to represent the Council in discussions or negotiations within that organisation.

## PART 5 – PROTOCOL ON COUNCILLOR APPOINTMENTS TO EXTERNAL ORGANISATIONS

### Types of External Organisation

5. There are a number of types of organisation to which the Council may appoint councillors. Some common examples are:
  - National or regional body
  - Charitable Trust
  - Company limited by shares
  - Company limited by guarantee
  - Unincorporated association
  - Industrial and provident society (mainly housing associations)

### Legal Structures

6. In all cases it is essential that those accepting an appointment to an external organisation should have absolute clarity of the legal status of the organisation concerned and the nature and responsibilities of the appointment itself of the appointment itself. Those proposing to take up appointments must ensure that they possess and have read an up-to-date copy of the organisation's governance documentation, the skills and experience required by the organisation and fully understand all obligations and including any implications relating to personal liability.

#### Charitable Status

7. Many organisations with which the Council becomes involved are registered charities. Charities are not themselves a separate category of organisation. Charitable status is a characteristic, which can be attached to a number of different types of organisation provided they are set up for specified, and purely charitable purposes and fulfil the various requirements of the Charity Commission.

There are four main structures available for charities and community groups. These are:

- Unincorporated Association
  - Charitable Trust
  - Charitable Incorporated Organisation (CIO)
  - Charitable Company
8. Organisations that are '*unincorporated*' are associations having no separate legal existence and remain for most purposes a collection of individuals and committee members hold personal liability. Any property or contracts would be held by individuals on behalf of the group. Any legal proceedings taken against the group would be taken against the individuals themselves, making them personally liable. An '*incorporated*' organisation has limited personal liability, a clear statutory framework and clear accountability both to members/shareholders and to a regulatory body. Incorporated charities are registered as companies with Companies House as well as the Charity Commission. If a charity is incorporated, the organisation, rather than individual trustees, is liable for debts and other costs.
  9. Those managing a charitable organisation have the duties and responsibilities of company directors, management committee members or trustees, and are subject to the

## PART 5 – PROTOCOL ON COUNCILLOR APPOINTMENTS TO EXTERNAL ORGANISATIONS

legal requirements placed upon those organisations by charity law and/or company law as appropriate.

10. The duties of a charity trustee do not differ in principle from those of a non-charitable trustee - to execute the duties of the trust in accordance with its terms of reference and within the law in the interests of the intended beneficiaries. In doing so, they are subject to the jurisdiction of the Charity Commission. In particular, charity trustees may be held personally liable when charity assets are misapplied. This may be so even in some cases where the misapplication has been inadvertent (e.g., where the trustees honestly but mistakenly apply the assets other than for a charitable purpose). It is important to note that charity trustees who suffer financial loss as a result of such a breach are not entitled to be indemnified out of the charity's property.

### Company Status

11. Charitable companies (those incorporated as a company limited by guarantee) must comply with provisions in the Companies Acts 1985, 1989, 2006. Alongside compliance with charity law, they are required to register details of trustees as directors at Companies House. Councillors appointed to such organisations should ensure they are registered as directors and, in due course, ensure their names have been removed should they step down from the role.
12. Individuals appointed to positions within companies or industrial and provident societies (collectively referred to here as companies) should be mindful of Part V of the Local Government and Housing Act 1989 and the Local Authorities (Companies) Order 1995 and Part 1 of the Localism Act 2011. This legislation provides a framework for regulating local authorities' interests in companies, access to its information, the treatment of its accounts, and the stated association with the local authority. The law in this area will determine if a company has become a "regulated company". This means the degree to which local authorities or persons "associated" with local authorities are involved with the company. For these purposes, "associated" persons are current councillors, officers, and anyone who has been a councillor in the past four years, together with certain employees of local authority-controlled companies. A company would be deemed regulated if "associated" persons make up 20% or more of the directors/management committee members or shareholders or hold 20% or more of the voting rights. Appointees should inform the Monitoring Officer should any resignation or appointment lead to the 20% threshold being reached. This information should also be readily available at board/management committee meetings and be properly minuted.

### **Duties and Responsibilities of Directors and Trustees**

13. A councillor appointed as a director of a company must act in the best interests of the company. The main duties of a director are:
  - to act honestly and in good faith and in the best interests of the organisation as a whole;
  - a duty not to make a personal profit and to take proper care of the organisation's assets;
  - to attend board meetings and follow the rules on the declaration of interests;
  - to exercise reasonable skill and care (this is a subjective test based upon the individual's own knowledge and experience and involves due diligence in the performance of his/her duties as a director); and
  - to comply with statutory obligations imposed by the Companies Acts, other legislation and any procedural rules set out in the governing document.

## **PART 5 – PROTOCOL ON COUNCILLOR APPOINTMENTS TO EXTERNAL ORGANISATIONS**

14. A councillor appointed as a trustee of a charity has duties that are generally the same as for a director. In addition, he/she must ensure the trust acts in accordance with the aims and objectives of the trust and should ensure that he/she has a clear understanding of what these are (there is normally a trust deed which sets these out).

### **General Duties of an Appointee to an External Organisation**

15. In carrying out the duties of a Trustee or Director of an external organisation, decisions must be taken without being influenced by the fact that you are a councillor. The primary duty as an appointee making management decisions for the external organisation is to make these decisions in the interests of the organisation. Councillors should always ensure that their fellow directors/trustees are aware of the fact that they are councillors. In these cases, the councillor must act in the interests of that organisation and exercise independent judgement in making decisions, in accordance with a duty of care to the organisation. The councillor appointee is not there just to vote in accordance with the Council's wishes. You may have regard to the interests of the Council, but only insofar as those interests directly coincide with those of the organisation. In some cases, voting in the Council's interests could be a breach of a director's duty to a company.
16. In other cases, the Council may have expressed a view or formulated a policy and would expect the councillor appointee to convey that view or policy to the external organisation. This is acceptable if it does not conflict with the particular duties as director or trustee, or where it is not contrary to the interests of the organisation. The overriding responsibility is to seek to avoid a situation where duty and interest conflict and therefore if the appointee is unsure about declaring an interest, it would be wise to declare it and leave the meeting during consideration of the business. Correspondingly, where a given decision of the Council may directly affect the company, this may place the councillor acting as a director or trustee in a situation of conflict when making decisions. Advice should be taken from the Monitoring Officer on how to manage this situation.
17. Councillors (and officers) are under a specific obligation as a result of the Local Authorities (Companies) Order 1995 to provide such information about the company as is needed in relation to their role. That obligation is best met by an annual report to the relevant Portfolio Holder and subsequently to Council. While the law now makes this a requirement for involvement in outside companies, it is self-evident that the requirement to report back should apply to involvement in all outside bodies.

### **Appointment Procedure**

18. Councillors will normally be appointed to such external organisations that:
  - (i) Support the Council's Corporate priorities, and/or
  - (ii) Assist in delivery of Council services, and/or
  - (iii) Are using Council facilities
19. All appointees to external organisations shall be sitting borough councillors.
20. When an appointment is made, there shall normally be one councillor appointee and a deputy appointed to each external organisation.
21. The Council shall appoint to external organisations for a four-year term of office following Borough Council elections at the first ordinary Council meeting after the Selection

## **PART 5 – PROTOCOL ON COUNCILLOR APPOINTMENTS TO EXTERNAL ORGANISATIONS**

Council meeting. Should a vacancy arise during a term of office, then where applicable the deputy appointee will normally assume the role of the appointee for the term of office remaining and group leaders will be asked to submit nominations for the appointment of a new deputy appointee.

22. The Council or Executive shall approve all contested appointments as appropriate. In relation to contested nominations, each nominee shall have the opportunity to make either a written or an oral personal statement to the appropriate meeting in support of their nomination before the vote is taken, with any oral statement taking no longer than three minutes.
23. The Democratic Services and Elections Manager, under delegated authority, will determine uncontested appointments to external organisations.
24. A 'person profile' (as shown in Appendix 1 to this Protocol) shall be completed by each external organisation to ensure that the appointment is a suitable match to the requirements of the organisation and the capacity of the individual councillor in terms of skills, experience and time commitment.
25. It is the expectation of the Council that an induction and suitable training shall be provided for the councillor appointee by the external organisation, which shall include any legal responsibilities, budget and financial issues, information sharing with the council or other bodies and accountability.
26. It is the expectation of the Council that the external organisation will undertake any required and appropriate safeguarding arrangements with regard to the appointment and the appointee.
27. 'Appointments to External Organisations' will be covered in the Council's new councillor induction programme following local Borough elections.
28. Councillors shall not accept an appointment to an external organisation unless there is a full understanding of the commitments and requirements for the role between all parties.
29. Political group leaders shall liaise between themselves to ensure that individual councillor's interest in a specific nomination is shared between them before the meeting at which any contested appointments are to be determined.
30. Councillors appointed to an external organisation shall each year provide written feedback on the work of those organisations over the previous twelve months.
31. Councillor appointees are responsible for ensuring that their appointment has been approved and properly effected in accordance with the external organisation's own rules and procedures.
32. When an appointment ceases for whatever reason (including when that person ceases to be a councillor), the councillor concerned will be responsible for ensuring that it is properly terminated both with the Council and with the external organisation. It is not sufficient simply to cease to attend meetings of the organisation, as this is unlikely to extinguish the individual's legal responsibilities, where these apply.



## PART 5 – PROTOCOL ON COUNCILLOR APPOINTMENTS TO EXTERNAL ORGANISATIONS

### Following Appointment

33. All appointments approved by the Council, Executive or under authority by officer delegation will be recorded in writing, published in the public domain and the Monitoring Officer informed. Appointments made in accordance with this Protocol will be held on a register of appointments. This register will be publicly available on the Council website and kept up to date by the Democratic Services and Elections Manager.
34. Appointees should play an active role in the external organisation particularly by way of regular attendance at meetings and reporting back to the Council. In particular, the appointee should report immediately if there are any material changes in the organisation or its relationship with the Council that would affect the reason they are appointed.

### Conflicts of Interest

35. Disclosure of interests rules and the consequences of such disclosure in terms of speaking and voting on specific matters must be followed when working with the external organisation in the same way as council requirements as set out in the Councillors' Code.
36. Often, the purposes of the external organisation will coincide with the interests of the Council and conflicts should be rare. However, there may be difficulty in some circumstances if, for example
  - The organisation is not complying with the terms and conditions of a funding agreement with the Council, or;
  - If the organisation is to appeal against a planning decision made by the Council, or;
  - If the organisation has wider objectives than the reason behind the Council's appointment and wishes to pursue activities which would conflict with Council policy.

Such circumstances should be managed appropriately and advice should always be sought from the Monitoring Officer. Resignation may be the outcome.

37. If the Council or Executive does not feel that a representative on an external organisation is properly fulfilling their role and responsibilities, e.g. the person is not attending meetings or is voting in ways which may be inappropriate, then the Council or Executive could choose to change its appointee to the external organisation.
38. If the Council considers an issue relating to or affecting the external organisation you must declare an interest if the matter relates to an approval, consent, licence, permission or registration. Unless the interest is a disclosable pecuniary interest as defined in the Councillors' Code of Conduct, you would still be able to participate and, where applicable, vote on the matter at the meeting, if in doubt you should seek the Monitoring Officer's advice.
39. The Local Authorities (Companies) Order 1995 provides that an appointment to regulated company must end if the appointment as councillor ends. It may be that, on appointment, the Council wishes to make appointment to a company coterminous with a councillor holding a particular role or portfolio as elected member – and to extend these rules to appointment to other external bodies/organisations.

## **PART 5 – PROTOCOL ON COUNCILLOR APPOINTMENTS TO EXTERNAL ORGANISATIONS**

### **Duties of Confidentiality and Conduct**

40. Confidential information must be treated with care and if there is any doubt over the status of any information passed to the councillor by the organisation then it should be kept confidential and a check made with the Data Protection Officer, whether or not it is something which is already in the public domain or which may be disclosed. The specific rules adopted by each organisation will vary and therefore you should ask for advice and guidance from the secretary of the organisation and/or the Monitoring Officer, as appropriate.
41. The legal position is that someone who has received information in confidence is not allowed to take improper advantage of it. Deliberate leaking of confidential information will be a breach of the Councillors Code of Conduct and a breach of the Data Protection Act 2018 and may result in legal action.
42. An appointee by the Council to an external organisation must comply with the Code of Conduct of that organisation, if it has one. If it does not, he/she must comply with the Councillors' Code of Conduct unless observance of the Code would conflict with any other obligations (i.e. the duty to act in the best interests of the external organisation).
43. Under the Code appointees must not:
  - disclose information given in confidence by anyone, or information acquired which is believed to be of a confidential nature, without the consent of a person authorised to give it, or unless required by law to do so;
  - prevent another person from gaining access to information to which that person is entitled by law.

Any correspondence an appointee may have with the relevant external body, if using their council email address or council headed paper may be the subject of a Freedom of Information (FOI) or Environmental Information Regulations (EIR) request from a member of the public. Councillors should therefore note that any written communications made using the council email system may be made publicly available if the council deems it to be captured under FOI or EIR, regardless of whether that councillor believes themselves to be acting outside of their capacity as a councillor.

44. Disclosing confidential information may also contravene other parts of the Code e.g. it may be regarded as bringing the office of Councillor or the Council into disrepute; may compromise the impartiality of people who work for the Council; may improperly confer or secure an advantage or disadvantage the appointee or any other person.
45. The external organisation may make it a condition of appointment that any person appointed or nominated to it is subject to a criminal record check from the Disclosure and Barring Service (DBS).

### **Allowances, insurances and indemnities**

46. The Council has authorised attendance at meetings of external organisations as an approved duty for councillors, allowing travelling and/or subsistence allowances in connection with meetings of the organisation. Alternatively, the body itself, in accordance with its own rules, may defray any expenses. If the organisation does pay expenses, a claim may not be made from the Council. For further information on allowances, consult

## **PART 5 – PROTOCOL ON COUNCILLOR APPOINTMENTS TO EXTERNAL ORGANISATIONS**

the Democratic Services and Elections Manager. The Local Authorities (Companies) Order 1995 places strict limits on the allowances permitted to be paid to councillors when appointed to regulated companies, requiring them to be in line with the rules of the Council in relation to a comparable duty.

47. In no instances are councillors who are appointed to external organisations by the Council provided with personal liability indemnity for decisions they make and actions which they take in their representative capacity. The external organisation may have insurance to cover personal liability in these cases and councillors should always check with the organisation itself.

## **GUILDFORD BOROUGH COUNCIL**

# **PROTOCOL ON OFFICER APPOINTMENTS TO EXTERNAL ORGANISATIONS**

### **Introduction**

1. The Council has extensive involvement with a wide range of external partnerships and organisations. Officers may be involved on an individual basis with many organisations including community organisations, sports and recreation clubs, housing associations and companies and the Code of Conduct for Staff requires officers to notify their line manager of any private or personal interests<sup>1</sup>. This Protocol relates to the appointment of officers to external organisations by the Council. The main objective of these appointments is for the Council to develop positive relationships with local organisations in the interests of the local community.
2. Appointments include various roles ranging from advisory to membership of management committees as trustees or as company directors. Some roles will have legal duties and responsibilities which must be properly discharged and which can have implications for the Council as well as for the individuals themselves. Consequently, with any relationship involving external organisations there must be a clear definition of roles, responsibilities and accountabilities. This Protocol aims to assist officers serving on external organisations to be clear on these matters and includes guidance for dealing with any conflicts of interest between the Council and the external organisation.
3. The main purposes of this Protocol are:
  - (i) to ensure that the Council's and individual officers' interests are properly safeguarded and represented;
  - (ii) to ensure, whenever an officer is appointed to an external organisation, that all such appointments are properly authorised, recorded and managed; and
  - (iii) to provide a formal procedure with relevant guidance to appointees

### **Existing Guidance for Officer Appointees**

4. Officer should read and familiarise themselves with the Council's Code of Conduct for Staff which sets out policies and practice relating to:
  - General standards
  - Political neutrality
  - Disclosure of information
  - Relationships
  - Use of the Council's materials, equipment or resources
  - Separation of roles during competitive tendering
  - Appointments and employment matters
  - Outside commitments
  - Personal interests
  - Gifts and hospitality
  - Sponsorship
  - Equality and health and safety issues
  - Information technology
  - Breach of code of conduct

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<sup>1</sup> GBC Constitution Part 5, Code of Conduct for Staff, Section 10.

## **PART 5 – PROTOCOL ON OFFICER APPOINTMENTS TO EXTERNAL ORGANISATIONS**

5. The Council requires officers to disclose direct or indirect pecuniary interests in organisations having contracts with the Council. Officers are expected to consider carefully whether their membership of any organisation could allow the impression to be created that their official position could be used to promote a private or personal interest and, if appropriate, submit a declaration to the Monitoring Officer.

### **Types of External Organisation**

6. There are a number of types of organisation to which the Council may appoint officers  
Some common examples are:
  - National or regional body
  - Charitable Trust
  - Company limited by shares
  - Company limited by guarantee
  - Unincorporated association
  - Industrial and provident society (mainly housing associations)

### **Legal Structures**

7. In all cases, it is essential that those accepting an appointment to an external organisation should have absolute clarity of the legal status of the organisation concerned and the nature of the appointment itself. Those proposing to take up appointments must ensure that they possess and have read an up-to-date copy of the organisation's governance documentation and fully understand all obligations and any implications relating to personal liability.
8. Officers should read and familiarise themselves with the Council's separate guidance for councillors appointed to external organisations in terms of:
  - Charitable status
  - Company status
  - Duties and responsibilities of directors and trustees
  - General duties of councillor appointees to an external organisation
  - Councillor appointment procedure
9. The Monitoring Officer is excluded from serving on the governing organisation of any external organisation because this officer acts solely and transparently in the Council's interest and is in a position of independence to comment on potential conflicts of interest.

### **Following Appointment**

10. All officer appointments should be notified to the Monitoring Officer, to be recorded in the register of appointments.
11. Subject to any absolute duties (such as, for example, as a Director to an external company, in the instance of a conflict) appointees should play an active role in the external organisation particularly by way of regular attendance at meetings and reporting back to the Council. In particular, the appointee should report immediately if there are any material changes in the organisation or its relationship with the Council that would affect the reason they are appointed.

## **PART 5 – PROTOCOL ON OFFICER APPOINTMENTS TO EXTERNAL ORGANISATIONS**

12. Councillors (and officers) are under a specific obligation as a result of the Local Authorities (Companies) Order 1995 to provide such information about the company as is needed in relation to their role. That obligation is best met by an annual report to the relevant Portfolio Holder and subsequently to Council. While the law now makes this a requirement for involvement in outside companies, it is self-evident that the requirement to report back should apply to involvement in all outside bodies.

### **Conflicts of Interest**

13. Unless an officer has been appointed a director or a trustee officers will be representing the views of the Council and must make that clear at any meeting of the external organisation. If the officer has been appointed a director or trustee then they must act in the best interests of the external organisation and follow the guidance set out for such roles. In particular, care should be taken to act for the proper purposes of the company, charity, or partnership – to avoid the risk of a shadow directorship (a liability directly to the Council).
14. Often, the purposes of the external organisation will coincide with the interests of the Council and conflicts should be rare. However, there may be difficulty in some circumstances if, for example
- The organisation is not complying with the terms and conditions of a funding agreement with the Council, or;
  - If the organisation is to appeal against a planning decision made by the Council, or;
  - If the organisation has wider objectives than the reason behind the Council's appointment and wishes to pursue activities which would conflict with Council policy.

Such circumstances should be managed appropriately and advice should always be sought from the Monitoring Officer. Resignation may be the outcome.

15. When external organisations consider issues relating to the business of the Council or where an appointee may have a personal interest in relation to the organisation's activities, these need to be declared in line with the rules of the external organisation. The specific rules adopted by each organisation will vary and therefore you should ask for advice and guidance from the secretary of the organisation and/or the Monitoring Officer, as appropriate.
16. If the Council considers an issue relating to or affecting the external organisation you must declare an interest if the matter relates to an approval, consent, licence, permission or registration. Unless the interest is a disclosable pecuniary interest as defined in the Officers' Code of Conduct, you would still be able to participate and, where applicable, vote on the matter at the meeting, if in doubt you should seek the Monitoring Officer's advice.

### **Duties of Confidentiality and Conduct**

17. Confidential information must be treated with care and if there is any doubt over the status of any information then it should be kept confidential and a check made with the Data Protection Officer, whether or not it is something which is already in the public domain or which may be disclosed.

## **PART 5 – PROTOCOL ON OFFICER APPOINTMENTS TO EXTERNAL ORGANISATIONS**

18. The legal position is that someone who has received information in confidence is not allowed to take improper advantage of it, or to disclose it without the party benefiting from the duty of confidentiality. Deliberate leaking of confidential information will be a breach of the Officers Code of Conduct and a breach of the Data Protection Act 2018 and may result in legal and/or disciplinary action.
19. An appointee by the Council to an external organisation must comply with the code of conduct of that organisation, if it has one. If it does not, he/she must comply with the Officers' Code of Conduct unless observance of the Code would conflict with any other obligations (i.e. the duty to act in the best interests of the external organisation).
20. Under the Code appointees must not:
  - disclose information given in confidence by anyone, or information acquired which is believed to be of a confidential nature, without the consent of a person authorised to give it, or unless required by law to do so;
  - prevent another person from gaining access to information to which that person is entitled by law.
21. Any correspondence an appointee may have with the relevant external body, if using their council email address or council headed paper may be the subject of a Freedom of Information (FOI) or Environmental Information Regulations (EIR) request from a member of the public. Officers should therefore note that any written communications made using the council email system may be made publicly available if the council deems it to be captured under FOI or EIR, regardless of whether that officer believes themselves to be acting outside of their capacity as an officer.
22. Disclosing confidential information may also contravene other parts of the Code e.g. it may be regarded as bringing the office of Officer or the Council into disrepute; may compromise the impartiality of people who work for the Council; may improperly confer or secure an advantage or disadvantage the appointee or any other person.
23. The external organisation may make it a condition of appointment that any person appointed or nominated to it is subject to a criminal record check from the Disclosure and Barring Service (DBS).

### **Allowances, insurances and indemnities**

24. Where attendance at meetings of external organisations is an approved duty for officers and has been authorised, the council would allow travelling and/or subsistence allowances in connection with meetings of the organisation. Alternatively, the body itself, in accordance with its own rules, may defray any expenses. If the organisation does pay expenses, a claim may not be made from the Council. For further information on allowances, consult your line manager.
25. The Council will provide insurance cover that only indemnifies officers for work they are doing on Council business, or representing the interests of the Council. If officers are not doing any of this, then they would not be covered under the Council's policy. In that instance, they would need to be covered by the external organisation. The external organisation may have insurance to cover personal liability in these cases and officers should always check with the organisation itself. In each instance, the Council's insurance officer should be consulted so that coverage may be confirmed.

## GUILDFORD BOROUGH COUNCIL

### ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF MISCONDUCT BY COUNCILLORS AND CO-OPTED MEMBERS

#### 1 Context

- 1.1 Under Section 28(6) and (7) of the Localism Act 2011, the Council, and each Parish Council within the borough area, must have in place arrangements under which allegations that a councillor or co-opted member ('Member') of the Council or relevant Parish Council has failed to comply with the relevant code of conduct (whether of the Council or the relevant Parish Council) can be made, investigated, and decisions can be made on such allegations.
- 1.2 These arrangements for dealing with allegations of misconduct by councillors and co-opted members ('Arrangements') apply when a complaint is received that a Member of the Council or relevant Parish Council has or may have failed to comply with the Code of Conduct for Members ('the Code').
- 1.3 The terms capitalised in these Arrangements are as defined within the text or at paragraph 2, Interpretation, below.
- 1.4 The Council may by resolution agree to amend these Arrangements, and has delegated to the Corporate Governance and Standards Committee the right to depart from these Arrangements where on the advice of the Monitoring Officer the Sub-Committee considers it expedient to do so in order to secure the effective and fair consideration of any matter and is lawful, and is consistent with the principles of natural justice.
- 1.5 The Council shall appoint one or more Independent Persons from outside the Council to assist the Monitoring Officer and the Corporate Governance and Standards Committee in considering complaints, and whose views:
- (a) must be sought by the Council before it takes a decision on any allegation which it has decided shall be investigated,
  - (b) may be sought by the authority at any other stage, and
  - (c) may be sought by a councillor or co-opted member against whom an allegation has been made.
- 1.6 No Member of the Council will participate in any stage of the arrangements if he or she has, or may have, any conflict of interest in the matter.

#### 2 Interpretation

- 2.1 'Assessment Sub-Committee' means the Sub-Committee of the Corporate Governance and Standards Committee constituted in accordance with paragraph 7.6 of these Arrangements.



## PART 5 - ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF MISCONDUCT BY COUNCILLORS

- 2.2 'Code of Conduct for Members' means the code of conduct for councillors and co-opted members adopted by the Council, or in relation to a Parish Council the code of conduct adopted by that Parish Council.
- 2.3 'Complainant' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Code of Conduct.
- 2.4 'the Corporate Governance and Standards Committee' means the Corporate Governance and Standards Committee or to a sub-committee to which it has delegated the assessment of complaints or the conduct of a hearing unless the context indicates that it refers only to the Corporate Governance and Standards Committee.
- 2.5 'Formal Investigation' means the process described at paragraph 9 of these Arrangements.
- 2.6 'Hearings Sub-Committee' means the Sub-Committee of the Corporate Governance and Standards Committee constituted in accordance with Appendix 3 of these Arrangements.
- 2.7 'Independent Member' means a co-opted person who is not a Councillor or Officer of the Council who sits on the Corporate Governance and Standards Committee in an advisory capacity but who is not entitled to vote.
- 2.8 'Independent Person' means the person (of whom there may be more than one) appointed by the Council under section 28(7) of the Localism Act 2011 who has the functions set out in that Act, as referred to in paragraph 1.5 above.
- 2.9 'Informal Resolution' means the procedure described in these Arrangements at paragraph 8.
- 2.10 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Member. The Investigating Officer may be another officer of the Council, an officer of another authority or an external investigator.
- 2.11 'Investigation Report' means the report prepared in accordance with paragraphs 21 to 24 of the Procedure for Local Investigation of Assessed Complaints at Appendix 2.
- 2.12 'Monitoring Officer' means the statutory officer appointed by the Council under the Local Government and Housing Act 1989 Sections 5 and 5A, being the officer of the Council who is responsible for administering the system of complaints about member misconduct and as part of that role may nominate another officer of suitable experience and seniority to carry out any of the functions listed in these Arrangements.
- 2.13 'Parish Member' means a co-opted member of any parish council within the borough who sits on the Corporate Governance and Standards Committee and in respect of parish matters the Assessment or Hearings Sub-Committees in an advisory capacity but who is not entitled to vote at meetings.

- 2.14 'Police Reporting Protocol' means the protocol as may be adopted from time to time describing how the Council and the Police will cooperate in the event of the discovery of information or evidence tending toward indicating that a crime has been, or may have been, committed and titled the *Protocol between Guildford Borough Council and Surrey Police regarding the investigation of alleged criminal conduct by Councillors*.
- 2.15 'Subject Member' means an elected or co-opted member of the Council or any elected or co-opted member of any parish council within the borough against whom a complaint has been made alleging a breach of the Code of Conduct.

**3. Making a complaint**

- 3.1 All complaints must be made in writing and shall be on the official complaint form. The complaint form can be posted or e-mailed to the Council's Monitoring Officer whose contact details are:

Monitoring Officer  
Guildford Borough Council  
Legal Services  
Millmead House  
Millmead  
GUILDFORD  
Surrey GU2 4BB  
Email: [monitoringofficer@guildford.gov.uk](mailto:monitoringofficer@guildford.gov.uk)  
Telephone: 01483 444135

- 3.2 Complainants who find difficulty in making their complaint in writing (e.g. because of a disability) will be offered assistance. A request for assistance should be made in the first instance by contacting the Monitoring Officer, whether in person, by phone, or email (whether by themselves or by somebody assisting them) using the contact details set out in paragraph 3.1 above.
- 3.3 A complaint should describe the resolution (whether formal or otherwise) sought, and must provide substantiated information: the Monitoring Officer shall rely wholly on information and evidence accompanying a complaint when conducting the Initial Jurisdiction Test. Further information regarding the range of formal sanctions available is set out in paragraph 27 of Appendix 3.

**4. Complaints identifying possible criminality, complainant confidentiality, and anonymous complaints,**

**Anonymous Complaints**

- 4.1 Anonymous complaints will not normally be investigated, and will only be accepted in exceptional circumstances where the Monitoring Officer (in consultation with the Independent Person) concludes that the balance of the public interest lies in doing so, and the fairness of the procedure is maintained.

**Complaints Identifying Possible Criminality**

- 4.2 If the complaint identifies criminal conduct by any person, the Monitoring Officer shall, having regard to the Police Reporting Protocol, make a report to the Police or

other appropriate investigatory authority, in addition to any action taken pursuant to the Code. In the case of alleged criminal conduct, the complaint may be held in abeyance pending the outcome of any criminal investigation.

### **Complainant and Witness Confidentiality**

- 4.3 If a Complainant or any witness giving any information or involved in any discussions (whether with the Monitoring Officer, the Investigating Officer, the Independent Person, or the Parish Member) wishes their identity to be withheld, they should state this on the complaint form (or, in the case of a witness, in writing to the Monitoring Officer), providing full reasons. Any request for confidentiality will be considered by the Monitoring Officer at the Initial Assessment stage of these Arrangements. In reaching his/her decision, the Monitoring Officer shall have regard to the principles described at paragraph 4.4 below, and may also consult with the Council's Independent Person.
- 4.4 As a matter of fairness and natural justice and in order to preserve the probative value of any evidence given, the Subject Member will usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the identity of a Complainant or witness where the Monitoring Officer is satisfied that the Complainant has reasonable grounds for believing that they, or any witness relevant to the complaint, may be at risk of serious harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed. The Monitoring Officer (in consultation with the Independent Person) will consider whether the public interest in taking action on a complaint outweighs the wish of the Complainant or witness to have his or her identity withheld from the Subject Member, whether the fairness of proceedings is maintained.
- 4.5 Where the Monitoring Officer decides to refuse a request by a Complainant or a witness for confidentiality, they will offer the Complainant the option to withdraw the complaint or the witness to withdraw their witness evidence.

### **Sensitive and confidential information**

- 4.6 Where any decision notice, record, or report (including the report of an Investigating Officer) contains information which is sensitive or confidential, the Monitoring Officer having regard to the Access to Information Procedure Rules at Part 4 of the Council's constitution may redact it in any published version.

## **5. The Handling of Complaints**

### **Discontinuance of Complaints by Monitoring Officer**

- 5.1 The Monitoring Officer may discontinue a complaint or terminate an investigation if they consider it appropriate to do so, having regard to whether the balance of the public interest lies in continuing to action the complaint, where the Subject Member:
- (a) ceases to be a Member of the Council,
  - (b) has a long term or serious illness and is unable to participate in the procedure, or

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(c) dies.

5.2 Where a complaint is discontinued, the Monitoring Officer will write to the Complainant and the Subject Member setting out the reasons for their decision.

### **Timeframes and Communications Policy**

5.3 The Monitoring Officer will acknowledge receipt of the complaint within 10 working days of all required information being provided.

5.4 Key dates in relation to the administration of the Arrangements are set out in the body of the Arrangements, and shall act as targets to facilitate the swift administration of the Arrangements but which, if missed, will not invalidate the procedure comprised herein.

5.5 The Complainant and the Subject Member will be informed should there be a delay in completing any stage of the process.

5.6 The Communications Policy at Appendix 1 shall have effect in relation to any matters of publicity, or public engagement associated with a Complaint.

### **Participation of Complainant**

5.7 Where the Monitoring Officer concludes in consultation with the Independent Person, that the participation of the Complainant (by way of interview, or appearance before Hearings Sub-Committee) would be in the public interest, the Monitoring Officer shall request the further participation of the Complainant, giving reasonable notice, and such support as the Complainant may reasonably require and where the Complainant declines to participate this shall be recorded in the report of any decision or investigation, or reported to the Hearings Sub-Committee (as the case may be).

## **6. Stage 1 – Initial Jurisdiction Test**

6.1 The Monitoring Officer will, within 20 working days of the acknowledgement referred to in paragraph 5.3 above, apply the following questions to determine whether a Complaint falls within the jurisdiction of these Arrangements:

- (a) Did the alleged conduct occur before the adoption of the Code of Conduct?
- (b) Was the Subject Member a member of the Borough or relevant Parish Council at the time of the alleged conduct?
- (c) Was the Subject Member acting in an official capacity as a councillor at the time of the alleged conduct? (The case law and legislative position is that Code of Conduct matters can only be dealt with when the allegation is about something that a Councillor did in his or her role as a councillor when acting in an official capacity.)
- (d) Did the alleged conduct occur when the Subject Member was acting as a member of another authority, subject to the code of conduct of that authority,

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and not subject to these *arrangements for dealing with allegations of misconduct by Councillors*?

- (e) If the facts were proved would the alleged conduct be capable of constituting a breach of the Code of Conduct?
- (f) Is the complaint limited to dissatisfaction with the Borough or relevant Parish Council's decisions, policies and priorities?

6.2 Where a complaint is rejected on any of the above grounds, the Monitoring Officer will write to the Complainant explaining why their complaint cannot be dealt with under this procedure.

6.3 If the Complaint passes the Initial Jurisdiction Test, it will proceed to stage 2.

### **7. Stage 2 – Procedure for Initial Assessment of Complaint**

7.1 The Monitoring Officer will notify the Subject Member, and if applicable, the Parish Clerk of the existence of the complaint, providing a copy of the complaint and such information as accompanied it (subject to paragraphs 4.3 and 4.4 (confidential complaints)). The documents provided may include necessary redactions in order to maintain any confidentiality that has been agreed by the Monitoring Officer. The Monitoring Officer will invite the Subject Member to submit any comments or information in response within 20 working days of the notification, which the Monitoring Officer will take into account in conducting the Initial Assessment.

7.2 Upon the Subject Member either providing a response, or declining to do so within the 20 working days referred to in paragraph 7.1 (unless extended by agreement with the Monitoring Officer), the Monitoring Officer will provide the complaint, accompanying information or evidence, together with any response provided by the Subject Member, pursuant to paragraph 7.1 above, to the Independent Person and, where applicable, to the Parish Member, allowing a reasonable period for that response to be provided, and asking for their view generally, and on whether the complaint merits Informal Resolution or Formal Investigation.

7.3 Once the Independent Person, and the Parish Member (where applicable) have provided a response, the Monitoring Officer shall (subject to the exception described at paragraph 7.6 below) have regard to that response and to the following criteria in deciding whether a complaint should be subject to Informal Resolution or Formal Investigation:

- (a) The seriousness of the matters alleged;
- (b) Whether a substantially similar allegation has previously been made by the Complainant to the Monitoring Officer (unless sufficient new evidence is provided), or the complaint has been the subject of an investigation by another regulatory authority;
- (c) Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;

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- (d) Whether the evidence is sufficiently reliable, i.e. whether it is first-hand evidence or hearsay evidence, and whether it is relevant to the alleged breach?
- (e) Whether the Subject Member is willing to participate in an Informal Resolution;
- (f) Whether the allegation is anonymous (subject to paragraph 4.6 above);
- (g) Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action; and
  - i) The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations;
  - ii) Whether in all the circumstances there is no overriding public benefit in carrying out an investigation;
  - iii) Whether the complaint appears to be trivial, malicious, vexatious, politically motivated or 'tit-for-tat'; or,
  - iv) Whether the complaint relates to a matter which is the subject of a corporate complaint;

7.4 The Monitoring Officer shall in particular have regard to the following mitigating, and aggravating factors:

### **Mitigating factors (tending to make further action less likely)**

- (1) The substance of the complaint has already been the subject of an investigation or other action relating to the Code of Conduct;
- (2) The allegation took place more than 28 days prior to receipt of the complaint and there would be little benefit in taking action now;
- (3) The Subject Member took appropriate advice on the matter and followed that advice;
- (4) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
- (5) It is likely that an investigation will prove only a technical or inadvertent breach;
- (6) The complaint appears to be trivial, malicious, vexatious, politically motivated or 'tit-for-tat';
- (7) The Complainant has involved the press in relation to the alleged complaint;
- (8) The member has already provided (or tried to provide) a suitable remedy (such as apologising);
- (9) The breach occurred in all innocence i.e. without knowledge;
- (10) There was unreasonable provocation;

### **Aggravating factors (tending to make further action more likely)**

- (1) The complaint involves allegations of bullying or intimidation of a Complainant;
- (2) The allegation if proven could have a serious effect upon the reputation of the Council or relevant parish council, upon staff relations or upon public trust and confidence;

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- (3) The Subject Member holds a position of seniority and/or a position of influence;
- (4) There is a pattern of individual acts of minor misconduct which appear to be part of a continuing pattern of behaviour that is unreasonably disruptive to the business of the Council or relevant parish council;
- (5) The Subject Member took appropriate advice on the matter but did not follow that advice;
- (6) The complaint involves an allegation that the behaviour may cause the Council or relevant parish council to breach an equality enactment;

7.5 The criteria set out in paragraphs 7.3 and 7.4 above does not limit or fetter the discretion of the Monitoring Officer and is not an exhaustive or prescriptive list and the Monitoring Officer may take into account other criteria dependent on the circumstances. The existence of such criteria does not fetter the discretion of the Monitoring Officer.

### Assessment Sub-Committee

7.6 The Monitoring Officer may refer a complaint to the Assessment Sub-Committee for assessment. The referral power is at the absolute discretion of the Monitoring Officer. Examples of when a referral may take place include, but are not limited to the following:

- (1) It is an allegation where there is a perceived or actual conflict of interest e.g. the Monitoring Officer has previously advised the Subject Member on the matter;
- (2) It involves the Mayor or Deputy Mayor of the Council;
- (3) It involves the Leader, a member of the Executive, or the leader of a political group;
- (4) It involves a Chairman or Vice Chairman of a Council Committee or Sub-Committee
- (5) The Complaint is from a Statutory Officer of the Council (the Head of Paid Service, Section 151 Officer, or the Monitoring Officer).

7.7 The Assessment Sub-Committee will be established in the same way as other Sub-Committees of the Corporate Governance and Standards Committee. The Assessment Sub-Committee shall have all the powers of the Monitoring Officer described in paragraph 7. Where the Assessment Sub-Committee finds that a complaint should be subject to Informal Resolution, paragraph 8 shall apply and the Monitoring Officer shall resume responsibility for the progression of the matter

7.8 Decisions of the Assessment Sub-Committee are usually made in private. Neither the Complainant nor the Subject Member will usually be permitted to attend where such meetings contain confidential personal information. In such cases, meetings will not be open to the press or public. The rules covering the exclusion of the press and public are set out in the Access to Information Procedure Rules at Part 4 of the Council's Constitution. If the press and public are to be excluded from a committee or sub-committee, a formal resolution of the meeting is required. This must specify the legal grounds for exclusion.

7.9 The members of any Assessment Sub-Committee will be selected by the Monitoring Officer, in consultation with the Chairman of the Corporate Governance and

Standards Committee in accordance with paragraph 10.3(b) of Part 2, Article 10 of the Constitution.

**Decision in writing**

- 7.10 The decision of the Monitoring Officer, or Assessment Sub-Committee (as the case may be) shall be recorded in writing, and a decision notice will be sent to the Complainant and the Subject Member within 10 working days of the decision. The Independent Person shall be given the option to review and comment on allegations which the Monitoring Officer (or Assessment Sub-Committee) is minded to dismiss as being without merit, vexatious, or trivial. The decision notice will summarise the allegation, give the decision of the Monitoring Officer or Assessment Sub-Committee, and the reasons for their decision. There is no right of appeal against the decision of the Monitoring Officer or Assessment Sub-Committee.

**8. Stage 3 - Informal Resolution**

- 8.1 In appropriate cases, the Monitoring Officer may seek to resolve the complaint without the need for a formal investigation by way of Informal Resolution, which may be appropriate for example:

- (a) Where it is apparent that the Subject Member is relatively inexperienced as a Member or has admitted making an error, was not actuated by any malicious intent, and the matter would not warrant a more serious sanction,
- (b) Where training or conciliation would be a more appropriate response.

- 8.2 Types of Informal Resolution might include:

- (a) An explanation by the Subject Member of the circumstances surrounding the complaint;
- (b) An apology from the Subject Member;
- (c) An agreement from the Subject Member to attend relevant training or to take part in a mentoring process;
- (d) Offering to engage in a process of mediation or conciliation between the subject Member and the Complainant; or
- (e) Any other action capable of resolving the complaint.

- 8.3 Where the Monitoring Officer seeks to resolve the complaint informally he or she will provide the Subject Member with recommendation together with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 20 working days following a decision to seek Informal Resolution) or to engage in a process of Informal Resolution organised by the Monitoring Officer.

- 8.4 Before deciding upon a course of action, the Subject Member may seek guidance from the Leader of their political group, the Independent Person, and/or the Monitoring Officer. The Monitoring officer may also seek the Complainant's views to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.



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- 8.5 At the end of the 20 working day period referred to at paragraph 8.3 above the Monitoring Officer will, in consultation with the Independent Person, seek to establish whether the Subject Member has resolved the complaint to the Complainant's satisfaction.
- 8.6 Where it has been possible to agree a form of resolution between the Subject Member and the Complainant, there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the Complainant and the Subject Member of this decision.
- 8.7 Where it has not been possible to agree a form of resolution between the Subject Member and the Complainant, the Monitoring Officer will decide if the complaint merits formal investigation.
- 8.8 Where the Subject Member makes a reasonable offer of informal resolution, but it is rejected by the Complainant, the Monitoring Officer will take account of this in his or her decision but may impose the Informal Resolution.
- 8.9 Where Informal Resolution is proposed, the Monitoring Officer may direct that the Subject Member maintains confidentiality as to the matters discussed, and parties involved.

### **9. Stage 4 – Formal Investigation**

- 9.1 Where the Monitoring Officer, or Assessment Sub-Committee decides that a complaint merits investigation, he/she will appoint an Investigating Officer.
- 9.2 The process of appointment and functions of the Investigating Officer are set out at Appendix 2.

### **10. Stage 5 – Review of Report**

- 10.1 The Monitoring Officer will, within 10 working days of the receipt of the Investigating Officer's report prepared in accordance with Appendix 2, review the report.
- 10.2 The Monitoring Officer will, in consultation with the Independent Person, determine whether:
- (a) The report is complete, or (where incomplete) should be referred back to the Investigating Officer or a newly appointed Investigating Officer; or,
  - (b) No further action is required, because the report finds no breach of the code of conduct; or
  - (c) The matter may be reasonably resolved by way of Informal Resolution; or,
  - (d) The matter should proceed to the Hearings Sub-Committee.
- 10.3 Save in respect of the circumstances described in paragraph 10.2 (a) above, the Monitoring Officer will give both the Complainant and the Subject Member a copy of the Investigating Officer's final report, subject to any necessary redactions in respect

## PART 5 - ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF MISCONDUCT BY COUNCILLORS

of confidential or sensitive information, and shall notify the Chairman of the Corporate Governance and Standards Committee of his or her decision.

### 11. **Stage 6 – Hearings Sub-Committee**

- 11.1 Where the Monitoring Officer has determined that the matters should proceed to the Hearings Sub-Committee, Appendix 3 shall apply.

Adopted by the Council on: 24 July 2018 (amended on 6 October 2020)

**Communications Policy in relation to Member Complaints**

1. The Communications Policy sets out guidelines on what can be communicated during any ongoing complaint. This covers both public statements to the media and communications with the Subject Member and Complainant and, if appropriate, the relevant Parish Council. Any communications shall be under the supervision of the Monitoring Officer who may direct any exception to them, or specific action.

**Statements to the Media**

2. The Council should communicate in a professional and objective manner. In all cases, the Council's approach to the media should be:
  - (a) open and honest whilst respecting the human rights of those parties involved, and
  - (b) responsive, balanced, and timely
3. All media communications will be made by the Council's Communications and PR Manager, in consultation with the Monitoring Officer and the Chairman of the Corporate Governance and Standards Committee.
4. During the first two stages of the process when a complaint is either the subject of the Initial Jurisdiction Test (Stage 1), or the Initial Assessment Test (Stage 2), it is not usual to make any public statement about a case. However, some matters may be in the public domain at an early stage. Where a statement is sought on an allegation at this stage, the Council should simply confirm or where appropriate deny the fact that an allegation has been received and is being assessed save for circumstances in which a corrective or guiding statement is justified to maintain confidence in the process. Regard should be had as to whether a complainant has sought his or her identity to be maintained as confidential; for example, it may be appropriate not to disclose the existence of a complaint until the Initial Jurisdiction Test has been applied.
5. Where, following assessment, no action is to be taken on a case, public attention should not be drawn to an allegation which is not being pursued. However, where a public statement is necessary, and subject to paragraph 4.8 of the Arrangements, reasons should be given as to further action is being pursued.
6. Where, following assessment some further action is being taken, either the matter is being investigated or some other resolution is being pursued or has occurred, a more pro-active stance may be necessary such as a short statement being made available to confirm the fact, e.g. that an investigation is now underway, and that no further comments will be made until the conclusion of the case. Councillors and officers should not make any comments one way or the other while an investigation is ongoing. All information gathered in the course of an investigation will be regarded as confidential. All parties that are interviewed will be requested to maintain confidentiality and councillors may in particular be referred to their obligation under paragraph 3 of the Code of Conduct not to disclose information that they have received in confidence. Any report issued by an Investigating Officer will be marked "Confidential" to preserve the integrity of any further investigation the Investigating

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Officer may need to carry out. Release of confidential information to the media may lead to an investigation being terminated.

7. Where some other resolution has been reached, this may be made available with the consent of the Subject Member.
8. Where an investigation has been completed and this results in a local hearing, the Corporate Governance and Standards Committee will arrange for a summary of the decision and reasons for that decision to be published on the Council's website.
9. The Corporate Governance and Standards Committee may also make available the minutes and reports of the Hearings Sub-Committee, subject to the advice of the Monitoring Officer.

**Procedure for Local Investigation of Assessed Complaint**

**Appointment of Investigating Officer**

1. Following the decision of the Monitoring Officer to investigate the allegation or upon receipt of the referral to the Monitoring Officer from the Assessment Sub-Committee for an investigation, the Monitoring Officer will appoint an Investigating Officer in respect of the allegation and instruct him or her to conduct an investigation of the allegation and to report thereon to the Monitoring Officer.
2. Where the Monitoring Officer acts as Investigating Officer, the role of legal adviser to the Hearings Sub-Committee shall be appointed by him to another individual, whether an internal or external appointee.
3. The Monitoring Officer may at his or her sole discretion make an external appointment to the role of Investigating Officer where for example:
  - (a) The complaint looks likely to raise particularly complex or sensitive issues;
  - (b) There is insufficient expertise within the Council to carry out the investigation;
  - (c) There is insufficient capacity within the Council to carry out the investigation;
  - (d) A conflict has, or may be perceived to have, arisen.

**Notification of Investigation to the Subject Member**

4. The Monitoring Officer will notify the Subject Member in writing:
  - (a) that the allegation has been referred for local investigation and possible hearing;
  - (b) the identity of the person making the allegation (unless identification of the Complainant might prejudice the investigation or put the Complainant at risk);
  - (c) the conduct which is the subject of the allegation;
  - (d) the paragraph(s) of the Code of Conduct which appear to be relevant to the allegation(s);
  - (e) the procedure which will be followed in respect of the investigation;
  - (f) the identity of the Investigating Officer;
  - (g) the identity of the Independent Person whose views may be sought by the Subject Member; and
  - (h) the identity of the Parish Member whose views may be sought by the Subject Member if the Subject Member is a parish councillor.

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5. The Monitoring Officer shall provide the Subject Member with a copy of the complaint.
6. In very exceptional cases, where the Monitoring Officer has reason to believe that there is a serious risk of intimidation of witnesses or destruction of evidence, the Monitoring Officer may initiate an investigation before notifying the Subject Member, and shall consider whether the matter should be referred to the Police, in accordance with paragraph 4.2 of the Arrangements.

### **Notification to the Complainant**

7. At the same time as notifying the Subject Member, the Monitoring Officer will notify the Complainant in writing of the matters set out above.

### **Notification to the Corporate Governance and Standards Committee**

8. At the same time as notifying the Subject Member, the Monitoring Officer will notify the Chairman of the Corporate Governance and Standards Committee in writing of the matters set out above.

### **Notification to the Parish Council Clerk**

9. Where the allegation relates to the conduct of a Subject Member of a Parish Council in his or her capacity as such, at the same time as notifying the Subject Member, the Monitoring Officer will notify the Clerk of the Parish Council concerned in writing of the matters set out above.

### **Investigation Process**

10. The agreed process may be the standard procedure used by the external investigator. As a minimum, the Investigating Officer will interview the Complainant, the Subject Member and, where possible, any witnesses to the event or events that are the substance of the complaint. The Investigating Officer will produce notes of these meetings that will be signed by the interviewees as fair records of what was said in the interviews. If the complaint is complex, the Investigating Officer may produce formal, signed statements and participants will be notified that the information they have provided could be released into the public domain if the matter proceeds to a hearing.
11. Interviews may be recorded where the Investigating Officer, in consultation with the Monitoring Officer, considers this appropriate.
12. The Monitoring Officer will agree with the Investigating Officer the scope and parameters of the investigation before an investigation starts. However, these may change during the course of an investigation depending on the findings of that investigation. Any changes will be agreed with the Monitoring Officer by the Investigating Officer and this agreement will be documented.

### **Initial Response of the Subject Member**

13. The Monitoring Officer should request the Subject Member to respond to the Investigating Officer in writing within 14 days of notification as follows:

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- (a) advising the Investigating Officer whether the Member admits or denies the breach of the Code of Conduct which is the subject of the allegation;
- (b) listing any documents which the Subject Member would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents and informing the Investigating Officer of where the original documents may be inspected;
- (c) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the Subject Member would wish the Investigating Officer to interview in the course of any investigation of the allegation; and
- (d) providing the Investigating Officer with any information which the Subject Member would wish the Investigating Officer to seek from any person or organisation.

### **Supporting information from the Complainant**

14. In notifying the Complainant as above, the Monitoring Officer will request the Complainant to respond to the Investigating Officer within 14 days of notification as follows:
- (a) listing any document which the Complainant would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected;
  - (b) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the Complainant would wish the Investigating Officer to interview in the course of any investigation; and
  - (c) providing the Investigating Officer with any information which the Complainant would wish the Investigating Officer to seek from any person or organisation.
15. The Subject Member has a duty to cooperate with any investigation and to respond promptly and to comply with any reasonable requests from the Investigating Officer for such things as interviews, comments on draft meeting/interview notes or the provision of information necessary for the conduct of an investigation.

### **Confidentiality**

16. It is important that confidentiality is maintained throughout the investigation and that details of the complaint are not disclosed to any third party, unless disclosure is to a representative, witness, immediate family members, or otherwise as may be required by law or regulation. However, the fact that an investigation is being conducted does not need to remain confidential.

### **Termination of an Investigation**

17. In exceptional circumstances, and as is referred to in paragraph 5.1 of the Arrangements, the Monitoring Officer may stop an investigation before it is finished,

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for example where confidential information has been released to the media, if the Subject Member ceases to be a councillor, has a long term or serious illness, or dies and it is deemed no longer in the public interest to pursue the matter further. If the Monitoring Officer stops the Investigation early, he/she will give their reasons to the Subject Member and the Complainant.

18. The Investigating Officer may terminate their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the Monitoring Officer or Hearings Sub-Committee.

### **Reference to Police or other regulatory agencies**

19. At any point in the course of the investigation, if the Investigating Officer is of the opinion the complaint identifies criminal conduct or breach of other regulation by any person, he or she shall notify the Monitoring Officer, who may direct that the investigation is suspended. The Monitoring Officer shall report the matter, as appropriate, in accordance with the Police Reporting Protocol.
20. Where the police or other agency investigates the matter, the Monitoring Officer shall take the advice and direction of the Police in deciding whether and when to inform the Subject Member, the Complainant, the Chairman of the Corporate Governance and Standards Committee and if appropriate the clerk to the relevant Parish Council. Where the Police or other relevant investigating body declines to undertake the investigation, the Monitoring Officer shall instruct the Investigating Officer to resume his or her investigation.

### **The Draft Report**

21. When the Investigating Officer is satisfied that he or she has sufficient information or has obtained as much information as is likely to be reasonably capable of being obtained, he or she shall prepare a draft Investigation Report setting out:
  - (a) the details of the allegation;
  - (b) the relevant provisions of the Code of Conduct;
  - (c) the Subject Member's initial response to the allegation(s) (if any);
  - (d) the relevant information, advice and explanations which he or she has obtained in the course of the investigation;
  - (e) a list and copy of any documents relevant to the matter;
  - (f) a list of those persons whom he or she has interviewed, a copy of the record and any meeting notes and those organisations from whom he or she has sought information;
  - (g) a note of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to co-operate;
  - (h) a statement of his or her draft findings of fact;



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- (i) his or her conclusion as to whether the Subject Member has or has not failed to comply with the Code of Conduct;
  - (j) any recommendations which the Investigating Officer is minded to make to the Hearings Sub-Committee. Where the allegation relates to a parish councillor, such recommendations would be recommendations which the Investigating Officer would recommend the Hearings Sub-Committee make to the relevant Parish Council.
22. The draft Investigation Report should also state that the Investigation Report does not necessarily represent the Investigating Officer's final finding and that the Investigating Officer will be in a position to present a final report to the Hearings Sub-Committee once he or she has considered any comments received on the draft Investigation Report.
23. The Investigating Officer shall then send a copy of his or her draft Investigation Report to the Subject Member and the Complainant and request that they send any comments thereon to him or her within 14 days of the date of that request. The draft Investigation Report will be clearly labelled 'DRAFT' and 'CONFIDENTIAL'.

### **The Final Report**

24. After the expiry of that period (or such extended period as the Investigating Officer may allow), the Investigating Officer shall reconsider and amend his or her draft report in the light of any comments received and produce and send to the Monitoring Officer his or her final Investigation Report. The report will be clearly labelled 'FINAL' and 'CONFIDENTIAL'.

**Appendix 3**

**Procedure and powers of the Corporate Governance and Standards Committee, and Hearings Sub-Committee**

**Timing**

1. The Corporate Governance and Standards Committee will seek to hold a hearing in relation to an allegation within three months of receiving the Investigation Report. The hearing will be conducted by a Sub-Committee of the Corporate Governance and Standards Committee known as the Hearings Sub-Committee.

**Before the hearing**

**The pre-hearing process**

2. The Corporate Governance and Standards Committee will use a written pre-hearing process in order to allow the hearing to proceed fairly and efficiently.
3. The Monitoring Officer will ask the Subject Member to provide the following information within 15 working days:
  - (a) to identify those paragraphs in the Investigating Officer's Report with which the Subject Member agrees, and those paragraphs in the Report with which the Subject Member disagrees and the reasons for such disagreement;
  - (b) to identify any further documentary evidence upon which the Subject Member would like to rely at the hearing;
  - (c) to ascertain if they are going to attend the hearing and if they are going to represent themselves or whether they are going to employ someone to represent them, in which case they should provide the details of their representative prior to the hearing;
  - (d) to give reasons whether the whole or any part of the hearing should be held in private and whether any of the documentation supplied to the Hearings Sub-Committee should be withheld from the public.
4. The Monitoring Officer will ask the Investigating Officer to comment on the Subject Member's response within 15 working days to say whether or not he or she:
  - (a) will be represented at the hearing;
  - (b) wants to call witnesses to give evidence to the sub-committee;
  - (c) wants any part of the hearing conducted in private and why;
  - (d) wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public and why.

5. The Monitoring Officer will endeavour to accommodate the availability of the parties (including the Complainant attending the hearing before notifying the parties of the date, time and place for the hearing.

### **The Hearing**

#### **Preliminary**

6. The members of the sub-committee will be selected by the Monitoring Officer after having consulted the Chairman of the Corporate Governance and Standards Committee, noting the restrictions of paragraph 1.6 of the Arrangements above, and in accordance with paragraph 10.4 (b) of Part 2, Article 10 of the Constitution.

#### **Notification of the Hearing**

7. The Monitoring Officer shall ensure that, when the agenda for the Hearings Sub-Committee is sent out to members of the Hearings Sub-Committee, including the final report, the agenda and the report are also sent at the same time to:
  - (a) the Subject Member
  - (b) the Complainant;
  - (c) Witnesses; and
  - (d) the Clerk to the relevant Parish Council if the Subject Member is a parish councillor.
8. The Hearings Sub-Committee will be convened to determine the outcome of the Complaint and shall follow the Order of Business set out below.

#### **The Order of Business**

9. The order of business will be as follows, subject to the Chairman exercising discretion and amending the order of business where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter:
  - (a) Election of a Chairman.
  - (b) Apologies for absence and notification of substitutes.
  - (c) Declarations of interests.
  - (d) In the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing.
  - (e) Introduction by the Chairman, of Members of the Hearings Sub-Committee, the Independent Person, the Parish Member (if the complaint involves a parish councillor), the Monitoring Officer or Legal Advisor to the Sub-Committee, Investigating Officer, Complainant(s) and the Subject Member and their representative (if appointed).

## **PART 5 - ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF MISCONDUCT BY COUNCILLORS**

- (f) To receive representations from the Monitoring Officer, the Investigating Officer and Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press (subject to Part 1 of Schedule 12A Local Government Act 1972 (as amended)).
- (g) To determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press (subject to Part 1 of Schedule 12A Local Government Act 1972 (as amended)).and the reasons for such an exclusion.
- (h) Conduct of the Hearing. The Hearings Sub-Committee may adjourn the hearing at any time.

### **Presentation of the Complaint**

- 10. The Investigating Officer presents their report including any documentary evidence or other material and calls any complainant witnesses.
- 11. The Hearings Sub-Committee will give the Subject Member the opportunity to ask any questions regarding the evidence presented through the Chairman. This is not cross examination but an opportunity to ask questions/points of clarification on the evidence presented at the hearing.
- 12. The Hearings Sub-Committee may question the Investigating Officer upon the content of his or her report and any complainant witnesses. This is not cross examination but an opportunity to ask questions/points of clarification on the evidence presented at the hearing.

### **Presentation of the Subject Member's case**

- 13. The Subject Member or their representative presents their case and calls their witnesses.
- 14. The Hearings Sub-Committee will give the Investigating Officer the opportunity to ask any questions regarding the evidence presented through the Chairman.
- 15. The Hearings Sub-Committee may question the Subject Member upon the contents of their case and any Subject Member witnesses.

### **Summing up**

- 16. The Investigating Officer sums up the complaint.
- 17. The Subject Member or their representative sums up their case.

### **Deliberations of the Hearings Sub-Committee**

- 18. The Hearings Sub-Committee will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor, and taking the view of the Independent Person and the Parish Member (where applicable) who shall be entitled to retire to consider their view) to consider whether on the facts found, the Subject Member has failed to comply with the Code of Conduct.

## PART 5 - ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF MISCONDUCT BY COUNCILLORS

19. The Hearings Sub-Committee may, at any time, come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Hearings Sub-Committee cannot be presented, then the Hearings Sub-Committee may adjourn the hearing and issue directions as to the additional evidence required and by whom.
20. The Hearings Sub-Committee will make its decision on the balance of probability, based on the evidence before it during the hearing.
21. Where the complaint has a number of aspects, the Hearings Sub-Committee may reach a finding, apply a sanction and /or make a recommendation on each aspect separately.
22. Having deliberated on its decision the Hearings Sub-Committee will reconvene the hearing in public and the Chairman will announce that, on the facts presented, the Hearings Sub- Committee considers that there has been a breach of the Code of Conduct, or no breach, as the case may be.
23. If the Hearings Sub-Committee considers that there has been **no breach of the Code of Conduct**, the Sub-Committee will set out the principal reasons for the decision. The Chairman will also announce that the Sub-Committee's full decision and reasons will be issued by the Monitoring Officer, in writing, within approximately 10 working days following the close of the hearing.
24. If the Hearings Sub-Committee decides that there has been **a breach of the Code of Conduct**, the Chairman will announce the principal reasons for the decision.
25. The Chairman will then invite the Investigating Officer and the Subject Member, to make their representations as to whether any sanction(s) or recommendations should be applied and what form any sanction(s) or recommendation(s) should take. In reaching its decision, the Hearings Sub-Committee may make any recommendations it considers may facilitate and enhance ethical standards within the relevant authority, noting the list at paragraph 28 below.
26. Having heard the representations/views, the Hearings Sub-Committee will adjourn with the legal adviser and deliberate in private. The Independent Person and the Parish Member (if appropriate) shall express their view in private session and shall be entitled to retire to consider their view beforehand.
27. Having deliberated on the suggested sanctions and/or recommendations(s) and the application of any sanctions(s), and having taken into account the Independent Person's views and those of the Parish Member if the complaint relates to a parish councillor, the Hearings Sub-Committee will reconvene the hearing and the Chairman will announce:
  - (a) whether any sanctions are to be applied (sanctions can only be recommended if the Subject Member is a parish councillor).
  - (b) Whether any recommendations will be made to the Borough or Parish Council or the Monitoring Officer.

## PART 5 - ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF MISCONDUCT BY COUNCILLORS

- (c) That the Sub-Committee's full decision and reasons will be issued by the Monitoring Officer, in writing, within approximately 10 working days following the close of the hearing.
- (d) That the decision will be published on the Borough Council's website; and
- (e) That there is no internal right of appeal against the Hearings Sub-Committee's decision(s) and/or recommendations(s).

### Range of Possible Sanctions

28. The Corporate Governance and Standards Committee has delegated to the Hearings Sub-Committee such of its powers to take action in respect of the Subject Member as may be necessary to promote and maintain high standards of conduct. Accordingly, the Hearings Sub-Committee may:

- (a) Publish and report its findings in respect of the Subject Member's conduct (or recommend to the relevant Parish Council that it does so);

And it may

- (b) Report its findings to Council (or to the Parish Council) for information;
- (c) Censure the Member;
- (d) Recommend to the Subject Member's political group leader (or in the case of an un-grouped Subject Member, recommend to Council) that they be removed from any or all Committees or Sub-Committees of the Council for a specified period;
- (e) Recommend to the Leader of the Council, in the case of an Executive Subject Member, that the Subject Member be removed from the Executive, or removed from particular portfolio responsibilities for a specified period;
- (f) Instruct the Monitoring Officer (or recommend to the relevant Parish Council) that the Subject Member be requested to participate in appropriate training or participate in conciliation and/or mediation; and where the Subject Member does not cooperate, the Monitoring Officer shall report the matter to the Chair of Corporate Governance and Standards who shall cause a meeting of the Hearings Sub-Committee to take place with the purpose of resolving to apply an alternative sanction;
- (g) Recommend to Council or the Leader of the Council (in the case of appointments by the Executive) or the relevant Parish Council that the Subject Member be removed from all or particular outside appointments to which they have been appointed or nominated by the Council or by the relevant Parish Council for a specified period (in which case the meeting of the Council or relevant Parish Council to consider the proposed removal shall do so on the basis of the report alone, and shall not re-hear the matter);
- (h) Withdraw, or recommend to the relevant Parish Council that it withdraws facilities provided to the Subject Member by the Council, such as a computer, website and/or e-mail and internet access for a specified period;

## PART 5 - ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF MISCONDUCT BY COUNCILLORS

- (i) Exclude, or recommend that the relevant Parish Council excludes the Subject 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 and public areas;
- (j) Issue a formal letter of advisement as to future conduct to the Subject Member;
- (k) Request that Subject Member should tender an apology to such persons as were aggrieved by his or her actions;
- (l) Where the Monitoring Officer and Independent Person are not satisfied that the Subject Member has tendered the apology described at 27.11 the Monitoring Officer shall report the matter to the Chair of Corporate Governance and Standards who shall cause a meeting of the Hearings Sub-Committee to take place with the purpose of resolving to apply an alternative sanction.

The Hearings Sub-Committee cannot suspend a Subject Member, withdraw a Subject Member's allowance, impose financial penalties, award compensation or make an award of costs.

### **Matters to Consider when Applying a Sanction**

29. When deciding whether to apply one or more sanctions referred to above, the Hearings Sub-Committee will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour and that any sanction does not unduly restrict the Subject Member's ability to perform the functions of a councillor. The Hearings Sub-Committee will consider the following questions along with any other relevant circumstances raised at the hearing:
- (a) What was the Subject Member's intention and did they know that they were failing to follow the Borough or Parish Council's Code of Conduct?
  - (b) Did the Subject Member receive relevant advice from officers before the incident and was that advice acted on in good faith?
  - (c) Has there been a relevant breach of trust?
  - (d) Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
  - (e) What was the result/impact of failing to follow the Borough or Parish Council's Code of Conduct?
  - (f) How serious was the incident?
  - (g) Does the Subject Member accept that they were at fault?
  - (h) Did the Subject Member apologise to the relevant persons?

## **PART 5 - ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF MISCONDUCT BY COUNCILLORS**

- (i) Has the Subject Member previously been warned or reprimanded for similar misconduct?
- (j) Has there been a relevant previous breach by the Subject Member of the Borough or Parish Council's Code of Conduct?
- (k) Is there likely to be a repetition of the incident?
- (l) Was it a deliberate breach of the code or was it inadvertent (i.e. the Member thought that he/she was acting in a private capacity)? If capacity is an issue, the Hearings Sub-Committee will need to give reasons for its decision that the Subject Member was or was not acting publicly.

### **The written decision**

30. The Chairman will announce its decision on the day. The Monitoring Officer will issue a full written decision approximately 10 working days after the end of the hearing to:
- (a) The Subject Member;
  - (b) The Complainant;
  - (c) Any witness; and
  - (d) The clerk to any Parish Council concerned.

### **Making the findings public**

31. The Monitoring Officer will also arrange for a decision notice to be published as soon as possible on the Council's website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.
32. If the Hearings Sub-Committee finds that a Subject Member did not fail to follow the relevant authority's Code of Conduct, the public summary must say this, and give reasons for this finding.
33. If the Hearings Sub-Committee finds that a Subject Member failed to follow the Code of Conduct, but that no action is needed, the public summary must say that the Subject Member failed to follow the Code of Conduct, outline what happened and give reasons for the Hearings Sub-Committee's decision not to take any action.
34. If the Hearings Sub-Committee finds that a Subject Member failed to follow the Code of Conduct and it sets a sanction, the public summary must say that the Member failed to follow the Code of Conduct, outline what happened, explain what sanction has been set and give reasons for the decision made by the Hearings Sub-Committee.

### **Costs**

35. Subject Members are responsible for meeting the cost of any representation at a Hearings Sub-Committee meeting from their own finances and not those of the Council. The Hearings Sub-Committee cannot make orders as to costs. Neither the



## **PART 5 - ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF MISCONDUCT BY COUNCILLORS**

Borough Council nor a Parish Council can contribute to the Subject Member's costs or the Complainant's costs or indemnify a Subject Member or Complainant against costs which he or she may incur.

### **Appeals**

36. There is no right of appeal for a Member against a finding by the Hearings Sub-Committee following a hearing.

### **Variation**

37. The Monitoring Officer or the Hearings Sub-Committee on the advice of the Monitoring Officer, in consultation with the Chairman of the Corporate Governance and Standards Committee, may vary this procedure in any particular instance where he or she or they is/are of the opinion that such a variation is expedient in order to secure the effective and fair consideration of any matter, is lawful, and is consistent with the principles of natural justice.

## Pre-Election Period Publicity and Decision-Making Policy for all Elections conducted in the Boroughs of Guildford and Waverley

1. This Policy applies from the date of the publication of the Notice of Election until after polls close being the period when pre-election period publicity restrictions apply. This Policy restricts the Council and its officers during the pre-election period; it does not fetter candidates and councillors from their own political campaigning when doing so using their own resources.

### Statutory requirements

2. There are statutory restrictions that apply to Council publicity before all elections. Although it should be *business as usual* in relation to decision-making, there are also some important sensitivities and conventions that councillors and officers should follow to reduce the risk of legal challenge being brought against the Council.
3. The Council must comply with restrictions outlined in Section 2 of the Local Government Act 1986 ('the Act'). In addition, a Code of Recommended Practice on Local Authority Publicity published in 2011 ("the Code of Practice") makes clear that particular care should be taken in periods of heightened sensitivity, such as in the run up to an election. The Act defines publicity as "**any communication, in whatever form, addressed to the public at large or to a section of the public.**"
4. Section 2 of the Act says that we should "**not publish any material which, in whole, or in part, appears to be designed to affect public support for a political party.**" The Code of Practice recommends that Councils should generally not issue any publicity which seeks to influence voters and that publicity relating to candidates and politicians involved directly in the election should not be published unless expressly authorised by statute.
5. The Code of Practice recommends that communications are issued with care during periods of heightened sensitivity.

### Publicity

6. The Council must not issue:
  - proactive publicity of candidates and other politicians involved directly in the elections (this includes a candidate, agent, proposer, seconder, or assenter) who are named in the published Statement of Persons Nominated notice for the elections (but see also the section on the mayoralty below)
  - publicity that deals with controversial issues that could specifically be linked to a relevant issue in the elections. If this cannot be avoided, the publicity should present issues clearly and fairly with opposing points of views represented.
  - publicity that reports views in such a way that clearly identifies them with individual members or groups of members directly involved in the elections.

## PART 5 – PRE-ELECTION PERIOD PUBLICITY AND DECISION-MAKING POLICY

7. Publicity includes:

- news releases and media enquiries
- emails, online and printed newsletters
- banners, posters, leaflets, booklets and publications
- social media information - such as postings on Facebook or Twitter – including video and audio clips and photographs
- consultation information
- information on our website

8. However, the Council can:

- respond to enquiries from the media provided that the answers given are factual and not party political
- if needed, publish factual information which identifies the names, wards and parties of candidates
- comment on a relevant issue where there is a genuine need for a councillor-level response to an important event outside of the Council's control or in relation to reactive media releases, with a response by a relevant lead officer
- continue with *business as usual* Council, Executive, and Committee meetings, subject to the proviso that the business to be transacted at those meetings, including motions brought and conduct displayed at those meetings does not, in the view of the Monitoring Officer, contravene the provisions of this policy.

9. During the pre-election period the Council will avoid:

- **including councillors or persons directly involved in the election in any publicity** other than the factual information referred to above - relevant lead officers may be quoted instead as necessary.
- organising photo opportunities or events which could be seen as giving candidates, councillors or other political office holders a platform for political comment.
- publications, events or promotions, and postpone them until after the elections if proceeding could give the appearance of seeking to affect support for a political party or candidate involved in the elections.
- commenting on matters of political controversy unless to refrain from comment would, in the opinion of the Chief Executive and Monitoring Officer, be harmful to the Council's reputation and best interests.
- references in publications to the period the current administration has been in office or to the Council's future commitments, if to do so could be seen to affect support for a political party or candidate involved in the elections.

### Social media

10. The following guidance applies to all Council social media channels that are managed and monitored by Council officers. These rules apply generally at all times but some need more careful consideration during the pre-election period.
11. Officers must not:
  - Share content from political parties, councillors or politicians (but see also the section on the mayoralty below).
  - Add content on matters that are politically controversial.
  - Post, tweet, or share text, images, or video of political parties, councillors, politicians or subjects that are politically controversial.
  - Start a significant digital campaign, unless it can be demonstrated that this was included in the communications schedule before the election was called and is not politically controversial.

### Decision making and Committee Meetings

12. The principle of the Council carrying on with *business as usual* during the pre-election period is subject to the wider context of pre-election sensitivity as to publicity. Therefore, depending on the type of election or referendum called, in relation to decision making within the council, the position remains that it is *business as usual unless there are very good reasons why this should not be the case*.

Specifically:

- Planning Committee, Licensing Sub-Committee and Licensing Regulatory Sub-Committee will be scheduled as usual during the Pre-election Period;

Meetings of the Full Council, Executive, and other Committees (including extraordinary and special meetings) may be scheduled with the approval of the Monitoring Officer.

- However, any meetings, formal decisions, Council motions or scrutiny projects on issues which are considered to have the potential to be politically contentious may be re-scheduled until after the pre-election period has ended, unless it is required by law to undertake them, or it's necessary to decide the matter to meet a statutory timetable.
- Where an unscheduled election is called, meetings scheduled to take place in the Pre-election Period (other than meetings of the Planning Committee, Licensing Sub-Committee and Licensing Regulatory Sub-Committee) may be cancelled if it is considered by the Monitoring Officer prudent to do so.

### Public Consultation

13. Public consultation exercises should generally not take place during the Pre-election Period, unless not to do so would be harmful to the Council best interests or unlawful.

## **PART 5 – PRE-ELECTION PERIOD PUBLICITY AND DECISION-MAKING POLICY**

14. The Joint Chief Executive, in consultation with the Monitoring Officer, will make the final decision in relation to whether a public consultation exercise should take place or not.

### **Third parties**

15. The restrictions on publicity in an election period apply to publicity issued by third parties if they are assisted by Council funding. For example, where it could be shown that Council funding is being used to pay for a charity's publicity, the Council will take reasonable steps to ensure that that organisation complies with this pre-election period policy.

### **The Mayoralty and Council events**

16. The Mayoralty is considered to be politically neutral and where, during the pre-election period, an elected Councillor response is required the Mayor should be the spokesperson.
17. Council communications including Social media posts by and about the Mayor can continue as long as they are not of a political nature.
18. The Council should avoid holding events which could give the appearance of seeking to affect support for a political party or candidate involved in the elections. The Chief Executive, in consultation with the Monitoring Officer, will make the final decision in relation to whether an event should be deferred or not.

### **Requests for Information**

19. The Council is still legally required to respond to requests for information under Freedom of Information and related legislation. The Council should continue to ensure that all requests are treated even-handedly, with no preference shown to a particular group or party.

### **Elected councillors**

20. Please note that the pre-election period restrictions generally relate to the Council and publicity in that period and not to individual councillors.
21. This means that individual councillors or political parties may contact the press directly, respond to their calls and set up their own photo shoots and publicity to promote a candidate or political party in the elections. However, they may not use the Council's resources (including ICT resources and email accounts), premises or facilities to do so. Councillors who breach or attempt to breach the restrictions or who put pressure on officers to break these rules may be in breach of the Councillors' Code of Conduct.

### **Council officers**

22. Officers should take care in responding to requests for ad hoc meetings of a public nature to ensure that they are required only for the proper discharge of the Council's business.
23. Officers should not supply Council photographs or other materials to councillors or anyone directly involved in the election, unless they have verified that they will not be used for campaigning purposes.

## PART 5 – PRE-ELECTION PERIOD PUBLICITY AND DECISION-MAKING POLICY

24. Officers should exercise caution if invited to any event in which election candidates participate. They should seek the Monitoring Officer's advice in such circumstances.
25. Those officers who are in politically restricted posts must refrain from taking part in canvassing or campaigning for a political candidate or party.
26. *Business as usual* officer decisions may continue be taken. However, politically controversial items may be deferred until after the election if to continue would, in the opinion of the Chief Executive, the Borough Returning Officer and the Monitoring Officer, be harmful to the conduct of the election.

### Risks

27. If these rules about publicity are broken, the Council could be subject to legal challenge and, in a worst-case scenario, election results could be invalidated. Officers who fail to observe the rules may be liable to disciplinary action.

### By-Elections

28. Although the full pre-election publicity procedures set out in the Policy will not be appropriate for ward by-elections, the Council and its officers will exercise extra caution and may apply some of the principles of this policy.

### Useful Links

The Code of Recommended Practice on Local Authority Publicity

[Recommended code of practice for local authority publicity - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/362222/Recommended_code_of_practice_for_local_authority_publicity_-_GOV.UK.pdf)

Local Government Association (LGA) – pre-election period overall section

[Pre-election period | Local Government Association](https://www.local.gov.uk/pre-election-period)

LGA short guide to publicity during the pre-election period

[A short guide to publicity during the pre-period | Local Government Association](https://www.local.gov.uk/pre-election-period)

## **GUILDFORD BOROUGH COUNCIL MONITORING OFFICER PROTOCOL**

### **1.0 THE MONITORING OFFICER**

The Monitoring Officer is responsible for ensuring that the Council and its Members act lawfully, do not cause maladministration, and comply with the Code of Conduct for Members. The Monitoring Officer is the Council's primary source of advice on all legal issues, and to Members on their legal obligations, but also has specific statutory duties, such as investigating complaints of Member misconduct and making public report to the Council in cases of illegality.

The purpose of this protocol is to enable Members to make use of the Monitoring Officer's ability to provide them with practical advice on legality and conduct, by setting out how the Monitoring Officer will carry out their functions.

### **2.0 INTRODUCTION**

The Council recognises that an effective Monitoring Officer, positively engaged in the discharge of the Council's business, is essential to the effective running and sound governance of the Council.

Section 5(1) Local Government and Housing Act 1989 requires the Council to appoint an Officer as the Council's Monitoring Officer and gives that Officer personal responsibility to:

- Report on actual, and anticipated, illegality within the Council; and
- Report cases where the Ombudsman has found maladministration on the part of the Council;

The Localism Act 2011 places a statutory responsibility on the Monitoring Officer to:

- Maintain the Register of Members' Interests; and
- Administer, assess and investigate complaints to Members' misconduct.

The law does not prescribe exactly how the Monitoring Officer is to carry out these functions. Therefore, this protocol describes the manner in which the Council expects the Monitoring Officer to discharge these functions and how it expects Officers and Members to co-operate with the Monitoring Officer in order to enable them to discharge these functions effectively.

### **3.0 DESIGNATION**

The Monitoring Officer is designated by Council and may or may not be an employee of the Council. Where the Monitoring Officer is an employee of the Council and leaves that employment, they automatically cease to be the Monitoring Officer for the Council. The Council may appoint an Officer as Monitoring Officer on an interim basis pending a permanent appointment.

The Council's structure provides for the Executive Head of Legal & Democratic Services to be the Monitoring Officer. Any appointment to the role of Executive Head of Legal & Democratic Services and designation to the role of Monitoring Officer must be made in accordance with the Officer Employment Procedure Rules at Part 4 of the Constitution.

#### **4.0 PERSONAL RESPONSIBILITY**

The Monitoring Officer is required to carry out the statutory functions of their post personally, with the exception that:

- The Monitoring Officer, rather than the Council, will nominate at least one Officer as Deputy Monitoring Officer, with the power to act as Monitoring Officer where the Monitoring Officer is unable to act as a result of absence, illness, or conflict of interest; and
- In respect of the obligations relating to alleged breaches of the Members' Code of Conduct, the Monitoring Officer may arrange for any person to perform all or any of their functions, for example by delegating internally or by instructing an external and independent individual to conduct a particular investigation.
- Whilst the statutory functions are personal to the Monitoring Officer, they may arrange for any Officer to assist them in the discharge of any non-statutory functions.

#### **5.0 FUNCTIONS**

The functions of the Monitoring Officer are as follows:

##### **5.1 Statutory Functions**

- To report to the Council in any case where they are of the opinion that any proposal, decision or omission by the Council or any of its Committees, Sub-Committees, or any Member or Officer, has given rise to, or is likely to give rise to any illegality, in accordance with section 5(2)(a) Local Government and Housing Act 1989.
- To report to the Council in any case where the Ombudsman, after investigation, has reported that any proposal, decision or omission by the Council or any of its Committees, Sub-Committee, or any Member or Officer, has given rise to maladministration or injustice, in accordance with section 5(2)(b) Local Government and Housing Act 1989.
- To maintain the Register of Member's Interests in accordance with section 81(1) Local Government Act 2000 and section 29 Localism Act 2011, including dealing with sensitive interests under section 32 Localism Act 2011.
- To administer, assess and investigate complaints of allegations of breach of the Members' Code of Conduct, in accordance with the Localism Act 2011.

##### **5.2 Non-Statutory Functions**

- To ensure that the Council has effective governance arrangements in place.



- To provide an effective, robust and ongoing programme of elected member training and development.
- To contribute to the corporate management of strategic risks.
- To encourage effective scrutiny of the Council.
- To monitor and uphold the Constitution.
- To provide or obtain legal advice to the Council.
- To provide advice to Members on conduct and ethics matters generally.
- To consult regularly with the Chief Executive / Head of Paid Service, the Chief Financial Officer and Auditors to identify areas where the probity of the Council can be improved or better protected and to take appropriate action.
- To investigate any applications for dispensation from a Member and to report and recommend to the Council and/or Corporate Governance & Standards Committee as appropriate.
- To report to the Council on resources which they consider they require for the discharge of their functions.

## **6.0 ADVICE AND DECISIONS**

The Monitoring Officer's responsibilities fall into 3 distinct categories:

### **6.1 Advice**

A Member may seek advice from the Monitoring Officer, for example concerning their interests. The Monitoring Officer will provide their advice but ultimately it is for the individual Member to take their own decision as to their conduct in the light of that advice.

### **6.2 Decisions**

Where the proposal, act or omission would cause the Council to act unlawfully, the Monitoring Officer may be required to decide whether there is any illegality that they are required to report to Council which would have the effect of suspending implementation of the action or decision until their report has been considered.

### **6.3 Advice and Decision**

In some case, for example a Member conduct matter, the Monitoring Officer may be obliged to advise a Member whilst also being required to take action as Monitoring Officer.

## **7.0 SEEKING THE ADVICE OF THE MONITORING OFFICER**

The Monitoring Officer will be most effective if they are able to advise on any issue at an early stage of policy formulation or implementation. Officers and Members should therefore routinely consult the Monitoring Officer in respect of new policy proposals and action programmes.

Members and Officers of the Council may consult the Monitoring Officer in confidence in respect of any proposal, decision or omission. Wherever possible, the

Monitoring Officer will seek to avoid any illegality or maladministration by identifying alternative means of achieving the objective or rectifying any deficiency. The Monitoring Officer may only make a report on illegality in respect of a proposal public where the relevant Officer or Member progresses the matter despite having been advised not to by the Monitoring Officer. Before reporting to Council on any illegality or maladministration, the Monitoring Officer will consult with the Chief Executive / Head of Paid Service and Chief Financial Officer.

The Monitoring Officer is responsible for advising Members on conduct and ethics matters and any Member can seek the confidential advice of the Monitoring Officer about their own position. Subject to any conflict of interest with the Council, the Monitoring Officer will advise whether in their view the conduct would amount to a breach of the Code and will not disclose that advice unless required to do so by law or as part of an investigation into an alleged breach of the code.

Members are encouraged to seek the advice of the Monitoring Officer concerning the conduct of another Member, prior to making a formal complaint, and they should do so in writing. The Monitoring Officer may make contact with the Member complained of, before responding.

## **8.0 INVESTIGATION**

The Council expects the Monitoring Officer to investigate matters which give them concern as to possible illegality, maladministration or breach of code of conduct.

Where the Monitoring Officer is considering a complaint of a breach of the code of conduct, they will follow the Council's procedures and arrangements set out for the assessment, investigation and determination of such complaints.

Where the Monitoring Officer considers a complaint of illegality or maladministration and determines that the proposal, act or omission does, or would, give rise to maladministration or illegality, they shall seek to agree an alternative and lawful course of action and/or make a statutory report.

Upon receiving any complaint of illegality, maladministration or breach of the code of conduct, the Monitoring Officer will, where appropriate, seek to resolve the matter amicably and informally, but there may be circumstances where the matter is not appropriate for local resolution, is incapable of so being resolved, or if of such seriousness that a statutory report is an appropriate response.

## **9.0 REPORTING**

Where the Monitoring Officer is of the opinion that illegality or maladministration has occurred or will occur, they will, after consulting with the Chief Executive / Head of Paid Service and Chief Financial Officer, report to Council. Alternatively, to negate the need for a separate statutory report, they are also able to add their written advice to the report on the matter by any other Council officer, and/or to provide oral advice at any meeting of the Council.

## 10.0 ADVICE TO INDIVIDUAL MEMBERS

Wherever possible the Monitoring Officer will provide advice to individual Members to support them in the discharge of their responsibilities as a Councillor. The Monitoring Officer will not however provide advice to a political group of the Council. The Monitoring Officer is designated as statutory officer to the Council, rather than to any individual Member or group of Members. Where the Monitoring Officer considers that providing advice to a Member is incompatible with their role as advisor to the Council, they may decline to provide such advice but can, at their discretion, secure such advice from an independent source at the Council's expense.

## 11.0 MONITORING AND INTERPRETING THE CONSTITUTION

The Monitoring Officer will monitor, and review on a regular basis, the effectiveness and operation of the Council's constitution so as to ensure that the aims and principles of the Constitution are given full effect and that the Constitution enables the Council to discharge its functions effectively.

In order to conduct such monitoring and review, the Monitoring Officer may:

- Consult any Member or Officer, other organisations and stakeholders.
- Observe meetings of Members and/or Officers at any level.
- Undertake an audit trail of a sample of decisions.
- Record and analyse issues raised with them by Members, Officers, the public or stakeholders.
- Compare practices in this Council with those in other comparable authorities, or national examples of best practice.
- Consider any relevant reports and recommendations of the Auditors and other regulatory agencies.

The Monitoring Officer will maintain an up-to-date copy of the Constitution and ensure that it is accessible to Members, Officers and the public and will make such amendments to the Constitution as are necessary to reflect changes of law, decisions made by Council and any other minor and consequential amendments.

The Monitoring Officer is responsible for advising on the interpretation of the Constitution.

## 12.0 RESOURCES

The Council is required by statute to provide the Monitoring Officer with the resources which they consider are necessary for the fulfilment of their statutory duties.

For the purpose of carrying out their functions, the Monitoring Officer shall be provided with the following resources:

- The right of access to all documents and information held by or on behalf of the Council.

## PART 5: MONITORING OFFICER PROTOCOL

- The right of access to any meetings of Members or Officers of the Council, other than political group meetings.
- The right to require any Officer or Member of the Council to provide an explanation of any matter under investigation.
- A right to report to the Council and to the Executive, including the right to present a written report and to attend and advise verbally.
- The right of access to the Chief Executive / Head of Paid Service and the Chief Financial Officer.
- The right, following consultation with the Chief Executive / Head of Paid Service and the Chief Financial Officer, to notify the Police, the Council's Auditors and other regulatory agencies of their concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions.
- The right to obtain legal advice at the Council's expense from an independent external source.

## GUILDFORD BOROUGH COUNCIL

### PROTOCOL ON DECISION-MAKING BY LEAD COUNCILLORS

#### 1. Protocol on Decision-Making by Lead Councillors

1.1 This protocol has been adopted by the Council to help achieve the following aims:

- (a) to protect the interests of the Council and individual councillors;
- (b) to ensure that decisions are based upon complete and sound information and advice from appropriate professional staff; and
- (c) to ensure that decisions are made in accordance with the Council's agreed processes and standards.

1.2 A clear audit trail of decision-making must be maintained for future reference. The Monitoring Officer will advise councillors and officers to ensure that the decision-making process meets the requirements of the law and good governance and on the proper implementation of these procedures.

1.3 This protocol does not cover all aspects of decision-making by individual councillors under executive arrangements. Councillors and officers will also need to be aware of and guided by other relevant sections of the Council's Constitution, particularly:

- Delegation to Lead Councillors (Part 3)
- Access to Information Procedure Rules (Part 4)
- Executive Procedure Rules (Part 4)
- Overview and Scrutiny Procedure Rules (Part 4)
- Councillors' Code of Conduct (Part 5)
- Code of Conduct for Staff (Part 5)
- Protocol on Councillor/Officer Relations (Part 5)

#### 2. Forward Plan

2.1 Subject to the provisions of Access to Information Procedure Rules 15 (General Exception) and 16 (Special Urgency), a key decision shall not be taken by an individual lead councillor unless details have been included in the Council's Forward Plan.

2.2 In addition, as is the case for decisions taken by the Executive collectively, the Democratic Services and Elections Manager, in consultation with the Leader of the Council, will endeavour to ensure that information on all other decisions to be made by individual lead councillors is included in the Forward Plan.

#### 3. Requirement for a Written Report

3.1 A written report on the proposed decision shall be prepared by the relevant officer on his or her own initiative or at the request of a lead councillor and shall be approved by the relevant strategic director.

3.2 The officer's report shall set out the following:

## PART 5 – PROTOCOL ON DECISION-MAKING BY LEAD COUNCILLORS

- (a) The Executive portfolio within which the issues falls.
  - (b) The ward(s) and any parish(es) affected by the proposed decision.
  - (c) The name and title of the officer concerned.
  - (d) The date of the proposed decision.
  - (e) The subject/title of the report.
  - (f) Whether a key decision is to be taken.
  - (g) Whether the report contains confidential or exempt information.
  - (h) A description of the issue to be decided.
  - (i) The views of the relevant local ward councillor(s) (if appropriate).
  - (j) The views of the relevant parish council(s) (if appropriate).
  - (k) Any consultations undertaken, the method of consultation and a summary of any representations received.
  - (l) The officer's recommendations and the reasons for them.
  - (m) Details of any alternative options considered.
  - (n) A list of background papers.
- 3.3 Subject to the provisions on confidential and exempt information and special urgency set out in the Council's Access to Information Procedure Rules, the Democratic Services and Elections Manager shall at least five clear days prior to the date that the proposed decision is scheduled to be taken:
- (a) forward a copy of the report by e-mail to the relevant lead councillor and all other councillors; and
  - (b) make the report publicly available at the Council offices and on the Council's website.

### **4. Taking the Decision**

- 4.1 The decision shall be taken by the lead councillor on the scheduled date in the presence of the relevant strategic director and Democratic Services and Elections Manager (or their representatives).
- 4.2 Prior to taking the decision, the lead councillor will be required to consider whether they, or their spouse or civil partner, have a disclosable pecuniary interest in relation to the matter under consideration. If they have such an interest and they have not received a dispensation in accordance with the Councillors' Code of Conduct, the lead councillor must not take any decision on that matter and must instead refer the matter to the Leader/Executive for determination.

**5. Record of Decision**

- 5.1 As soon as practicable after a decision has been taken by the lead councillor, the Democratic Services and Elections Manager will prepare a record of the decision in accordance with the provisions of Access to Information Procedure Rule 23.
- 5.2 By 5.00pm on the day following the date of the decision, the Democratic Services and Elections Manager shall forward the record of the decision by e-mail to all councillors indicating when it will become effective and, at the same time, will also make the record available for public inspection. This will enable councillors to consider whether they wish to call-in the decision in accordance with Overview and Scrutiny Procedure Rule 17.
- 5.3 The Democratic Services and Elections Manager will publish and maintain records of all decisions made, together with associated reports and background papers, in accordance with the Council's Access to Information Procedure Rules.

## **GUILDFORD BOROUGH COUNCIL**

### **OTHER POLICIES AND PROTOCOLS**

In addition to the policies and protocols included within Part 5 of the Constitution, the Council, the Leader of the Council, the Executive and other committees, councillors and officers will also act in accordance with the following documents:

- Anti-Fraud and Corruption Strategy
- Anti Bribery Policy
- Whistle-Blowing Policy
- Procurement Policy and Strategic Framework
- Risk Management Strategy and Framework
- Human Resources Strategy
- Equality Scheme
- Consultation Policy
- Communications Protocol
- Protocol on the appointment, role, status, rights and obligations of Honorary Freemen and Honorary Aldermen

Copies of these documents are published alongside the Constitution on the Council's website and internally on the Intranet.





GUILDFORD  
B O R O U G H

## **PART 6**

# **COUNCILLORS' ALLOWANCES**

## GUILDFORD BOROUGH COUNCIL

### COUNCILLORS’ ALLOWANCES SCHEME

This Scheme of Councillors’ Allowances was approved by the full Council on 3 December 2019 and is made in accordance with the provisions of the Local Authorities (Members’ Allowances) (England) Regulations 2003 as amended.

[N.B. The allowances stated below are current, that is to say that they are the levels of allowances that were set with effect from 1 April 2020 and which have been increased annually in accordance with the index referred to in paragraph 12.]

1. The Guildford Borough Council Scheme of Councillors’ Allowances shall come into effect on 1 April 2020.

#### Interpretation

2. In this scheme:
  - “councillor” means an elected member of Guildford Borough Council who is a councillor.
  - ‘member’ means any person who is either a councillor or a co-opted member.
  - “co-opted member” means any person who is not a councillor but who has been appointed by the Council to sit on a committee or sub-committee of the Council whether as a voting or non-voting member.
  - “year” means the 12 months ending on 31 March in any year.

#### Basic Allowance

3. Subject to paragraph 8, a basic allowance comprising £8,348 per annum shall be paid to each councillor.

#### Special Responsibility Allowance

4. Subject to paragraphs 5 and 6, a special responsibility allowance shall be paid to those councillors who hold a position of special responsibility as specified in Schedule 1.
5. The amount of each such allowance shall be the amount specified against the respective special responsibility in Schedule 1.
6. Any special responsibility allowance payable under paragraphs 4 and 5 shall be in addition to the basic allowance payable under paragraph 3 above.
7. The maximum number of recipients of SRAs at any one time shall not exceed 50% of Council Members (24 Members).

## PART 6 – COUNCILLORS’ ALLOWANCES SCHEME

### Part-Year Entitlement

8. If, in the course of the year, this scheme is amended or a councillor’s entitlement changes, the relevant basic and/or special responsibility allowance shall be calculated and paid pro-rata during the particular month in which the amendment to the scheme or change to entitlement occurs.

### Dependants’ Carers’ Allowance

9. Dependants’ Carers’ Allowance shall be paid to those councillors who necessarily incur expense in arranging for the care of their children or other dependants to enable them to undertake any of the activities specified in Schedule 2 to this Scheme.
10. The following conditions shall apply:
- The Dependants’ Carers’ Allowance shall be based on two rates:
    - Rate one for general care for children aged 15 or under shall be at a rate of £11.92 per hour, with no monthly maximum claim.
    - Rate two shall be for specialist care based at cost upon production of receipts and requiring medical evidence that this type of care is required.
  - the allowance shall be paid as a re-imbusement of incurred expenditure against receipts;
  - the allowance shall not be payable to a member of the claimant’s own household

### Co-optees’ Allowance

11. The Council shall pay a co-optees’ allowance of £419 per annum to each co-opted member.

### Indexation

12. The basic allowance, special responsibility allowances, dependants’ carers’ allowance, and co-optees’ allowance shall be adjusted annually in line with the percentage increase in staff salaries at Guildford Borough Council. The adjustment shall take effect on 1 April in each year until 1 April 2023.

### Travel and Subsistence Allowance

13. An allowance shall be paid to any councillor for travelling and subsistence in connection with any of the duties specified in Schedule 2.
14. An allowance shall be paid to a co-opted member of a committee or sub-committee of the Council for travelling and subsistence in connection with any of the duties specified in Schedule 2, provided that their expenses to cover travel and subsistence costs are not also being met by a third party.
15. Councillors or co-opted members:

## PART 6 – COUNCILLORS' ALLOWANCES SCHEME

- (a) will be reimbursed the cost of second class or any available cheap rate travel using public transport on production of a valid ticket in respect of any of the duties specified in Schedule 2;
  - (b) are entitled to travel by taxi or private hire vehicle where no public transport is reasonably available or for reasons of health/disability/safety. Reimbursement will be on the basis of the fare. In order to allow reimbursement of such claims, a valid receipt or proof of purchase of ticket for each journey must be submitted; and
  - (c) shall be permitted to claim for reimbursement of any reasonable parking charges incurred whilst on any of the duties specified in Schedule 2.
- 16.** A flat rate motor mileage allowance of 45p per mile in respect of cars and 24p per mile in respect of motor cycles shall be payable. A flat rate cycle mileage allowance of 22p per mile shall also be payable.
- 17.** The amounts payable in respect of subsistence shall be the amounts which are for the time being payable to officers of the Council for subsistence undertaken in the course of their duties.

### Recovery of Allowances Paid

- 18.** Where payment of any allowance has already been made in respect of any period during which the member concerned:
- (a) ceases to be a member of the Council, or
  - (b) is in any other way not entitled to receive the allowance in respect of that period,
- the Council shall require that such part of the allowance as relates to any such period be repaid to the Council.

### Claims and Payments

- 19.** Payments shall be made for basic, special responsibility and co-optees' allowances in instalments of one-twelfth of the amounts respectively specified in this scheme, on the 15<sup>th</sup> day of each month.
- 20.** A claim for travelling and subsistence or dependants' carers' allowance;
- shall be made on such form as may be provided for that purpose within six months from the date of the performance of the duty for which the claim is made;
  - shall be accompanied, where appropriate, by receipts and/or any relevant evidence of the costs incurred.
  - shall be subject to such validation and accounting procedures as the Joint Chief Executive may from time to time prescribe.
- 21.** Travelling and subsistence and dependants' carers' allowance shall be paid on the 15<sup>th</sup> day of each month for any claim received not less than 14 days before that date.
- 22.** Where a councillor is also a member of another authority, that councillor may not receive allowances from more than one authority in respect of the same duties.

## **PART 6 – COUNCILLORS' ALLOWANCES SCHEME**

### **Records of Allowances and Publications**

- 23.** The Council shall keep a record of payments made by it under this scheme, including the name of the recipients of the payment and the amount and nature of each payment.
- 24.** The record of the payments made by the Council under this scheme shall be available at all reasonable times for inspection by any local government elector at no charge. A copy shall also be supplied to any person who requests it on payment of a reasonable fee.
- 25.** As soon as reasonably practicable after the end of each financial year, the Council shall make arrangements to publish the total sums paid by it to each recipient for each different allowance.

### **Renunciation**

- 26.** A councillor may at any time and for any period, by notice in writing given to the Democratic Services and Elections Manager, elect to forgo any part of their entitlement to an allowance under this scheme.

### **Revocation**

- 27.** The Scheme of Allowances adopted by the Council on 10 February 2016 is hereby revoked with effect from 1 April 2020.

**PART 6 – COUNCILLORS’ ALLOWANCES SCHEME****Schedule 1****Special Responsibility Allowances**

The following are specified as the special responsibilities for which special responsibility allowances are payable and the amounts of those allowances:

<b>Tier</b>	<b>Special Responsibility</b>	<b>Basis of calculation</b>	<b>Amount £</b>
One	Leader of the Council	200% of Basic Allowance	16,692
Two	Deputy Leader of the Council	50% of the Leader’s SRA	8,348
Three	Executive Members (excluding Leader and Deputy Leader) Chairman of Planning Committee Chairman of Overview & Scrutiny Committee Mayor	40% of the Leader’s SRA	6,677
Four	Chairman of Corporate Governance and Standards Committee Chairman of Licensing Committee Chairmen of Executive Advisory Boards Deputy Mayor	25% of the Leader’s SRA	4,174
Five	Not applicable		
Six	Designated Licensing Sub-Committee chairmen		316 per meeting chaired
Seven	Political Group Leader’s Allowance	1% of Basic Allowance	83.48 per group member

**Schedule 2**

**Dependants’ Carers’ and Travelling and Subsistence Allowances**

The duties for which these allowances are payable include:

- (i) attending a meeting:
  - of the Council, the Executive, a committee of the Executive, an Executive Advisory Board, or a committee or sub-committee of the Council including any agenda briefing in connection with any such meeting
  - of some other body (including a committee, sub-committee or working group of such body) to which the Council makes appointments or nominations including any agenda briefing in connection with any such meeting
  - which has **both** been authorised by the Council, a committee, or sub-committee of the Council or a joint committee of the Council and one or more other authorities, or a sub-committee of a joint committee **and** to which representatives of more than one political group have been invited
  - of a local authority association of which the Council is a member
- (ii) formal site visits and other meetings authorised in advance by a committee or sub-committee
- (iii) Attendance at:
  - meetings convened by, or on behalf of, the Joint Chief Executive, a Strategic Director, or an Executive Head of Service
  - training courses, seminars or presentations held for councillors by the Council or approved third parties
  - Overview and Scrutiny work programme meetings
  - Executive Advisory Board work programme meetings
  - a meeting of any task group, working group, or panel of councillors established by the Council, the Executive, a committee, or an Executive Advisory Board
  - any task and finish group established by the Overview and Scrutiny Committee
  - meetings of a local parish council, parish meeting, residents’ association, local amenity group or neighbourhood meetings with police in a local ward councillor capacity
  - councillor ward and constituency activities including attendance at ward surgeries

## PART 6 – COUNCILLORS’ ALLOWANCES SCHEME

### Summary of Allowances

Taking account of paragraph 12 of the Scheme of Allowances, the following table provides a summary of the current value of allowances payable to councillors:

Allowance	Amount	Number	Total Per Annum
<b>Basic</b>	£8,348	48	£400,704
<b>Special Responsibility:</b>			
Tier One			
Leader of Council	£16,692	1	£16,692
Tier Two			
Deputy Leader	£8,348	1	£8,348
Tier Three			
Members of the Executive (excluding the Leader and Deputy Leader)	£6,677	8*	£53,416
Chair: Planning	£6,677	1	£6,677
Chair: Overview & Scrutiny	£6,677	1	£6,677
Mayor	£6,677	1	£6,677
Tier Four			
Chair: Corporate Governance & Standards	£4,174	1	£4,174
Chair: Licensing	£4,174	1	£4,174
Chair: Executive Advisory Board	£4,174	2	£8,348
Deputy Mayor	£4,174	1	4,174
Tier Five			
<i>Not applicable</i>			
Tier Six			
Designated Licensing Sub-Committee chairmen	£316 per meeting chaired	7	£3,160**
Tier Seven			
Political Group Leaders	£83.48 per group member	5	£4,007
<b>Co-Optees’ Allowance</b>	£419	6	£2,514
<b>Dependants’ Carers’ Allowance</b>	£11.92 per hour		

\* a maximum of ten Executive members (including the Leader and Deputy Leader are permitted by law

\*\* figure based on an average 10 meetings per annum



## PART 6 – COUNCILLORS' ALLOWANCES SCHEME

<b>Travelling &amp; Subsistence Allowances</b>	
<u>Motor Mileage Allowance</u>	
Cars	45p per mile
Motorcycles	24p per mile
Cycle Mileage Allowance:	22p per mile
<u>Day Subsistence Allowance:</u>	
Breakfast	£6.88
Lunch	£9.50
Tea	£3.76
Evening Meal	£11.76
<u>Overnight Subsistence Allowance:</u>	
London	£102
Elsewhere	£89

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GUILDFORD  
B O R O U G H

## **PART 7**

# **MANAGEMENT STRUCTURE**

## Guildford & Waverley Borough Councils – Joint Management Team – 30 January 2024

Showing directorates, services and the functions within services. Does not show specific teams which vary according to council.

**CHIEF EXECUTIVE:** Tom Horwood 01483 523238/07876 257175 tom.horwood@waverley.gov.uk

### COMMUNITY WELLBEING

Strategic Director: Annie Righton  
01483 523206/07973 757144  
annie.righton@waverley.gov.uk

<p><b>Communications &amp; Customer Services</b> Executive Head: Nicola Haymes 01483 444500 nicola.haymes@guildford.gov.uk <i>Communications and engagement; Complaints, Ombudsman; Customer services, case management; Digital services; FOI; ICT and business systems</i></p>
<p><b>Community Services</b> Executive Head: Sam Hutchison 01483 444385 samantha.hutchison@guildford.gov.uk <i>Careline; Community grants; Community Safety, incl CS Partnership; Disabled facilities grants, adaptations; Family support; Health; Safeguarding; Supporting vulnerable people, migrants and refugees</i></p>
<p><b>Environmental Services</b> Executive Head: Mark Allen (Interim) 07818 275862 mark.allen@guildford.gov.uk <i>Bereavement; Green spaces, parks, countryside, trees; Fleet operations; Street cleaning; Waste and recycling</i></p>
<p><b>Housing Services</b> Executive Head: <i>vacant</i> 01483 523096 <i>Homelessness; Housing advice; Housing maintenance and repairs; Landlord services</i></p>

### PLACE

Strategic Director: Dawn Hudd  
01483 444888/07890 592092  
dawn.hudd@guildford.gov.uk

<p><b>Assets and Property</b> Executive Head: Marieke van der Reijden 01483 444995 marieke.van.der.reijden@guildford.gov.uk <i>Property and land assets; Engineers; Facilities</i></p>
<p><b>Planning Development</b> Executive Head: Claire Upton-Brown 01483 523045 claire.upton-brown@waverley.gov.uk <i>Planning applications; Planning enforcement; Planning integration and improvement</i></p>
<p><b>Regeneration &amp; Planning Policy</b> Executive Head: Abi Lewis 01483 444908 abi.lewis@guildford.gov.uk <i>Corporate capital projects; Economic development; Housing delivery; Planning policy, design, conservation, transport; Regeneration</i></p>
<p><b>Regulatory Services</b> Executive Head: Richard Homewood 01483 523411 richard.homewood@waverley.gov.uk <i>Air quality; Corporate health and safety; Emergency planning; Environmental health/crime; Food safety; Licensing; Private sector housing</i></p>

Emails to @guildford and @waverley both work for all  
\* Reports to Chief Executive on statutory responsibilities

### TRANSFORMATION & GOVERNANCE

Strategic Director: Ian Doyle  
01483 444869/07443 525635  
ian.doyle@guildford.gov.uk

<p><b>Commercial Services</b> Executive Head: Kelvin Mills 01483 523432 kelvin.mills@waverley.gov.uk <i>Building control; Events; Heritage; Leisure; Parking (on and off street); Waverley Training Services</i></p>
<p><b>Finance (Section 151 Officer*)</b> Executive Head: Richard Bates (Interim) 01483 523539 richard.bates@waverley.gov.uk <i>Finance and accounting (General Fund/Housing Revenue Account); Internal Audit; Procurement; Revenues and Benefits</i></p>
<p><b>Legal &amp; Democratic Services (Monitoring Officer*)</b> Executive Head: Susan Sale susan.sale@guildford.gov.uk <i>Democratic and committee services; Elections; Executive and civic support; GDPR; Information security, governance; Legal; Overview &amp; Scrutiny support</i></p>
<p><b>Organisational Development</b> Executive Head: Robin Taylor 01483 523108 robin.taylor@waverley.gov.uk <i>Business transformation; Climate change; HR, learning and development, payroll; Strategy, policy and performance; Programme assurance; Risk management, business continuity</i></p>