



# THE CONSTITUTION OF SURREY HEATH BOROUGH COUNCIL

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## **PART 1**

# **SUMMARY AND EXPLANATION**

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# **PART 1 - SUMMARY AND EXPLANATION**

## **The Council's Constitution**

Surrey Heath Borough Council has adopted a constitution which sets out how the Council operates. It describes how decisions are made and the procedures which are followed. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What's in the Constitution?

Article 1 of the Constitution sets out the Council's purpose in preparing the Constitution. Articles 2-16 explain the rights of the public and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- The Public and the Council (Article 3)
- The Full Council (Article 4)
- The Mayor (Article 5)
- Scrutiny Committees (Article 6)
- The Leader, the Deputy Leader and the Executive (Article 7)
- Regulatory and Other Committees (Article 8)
- The Standards Hearing and Determination Committee (Article 9)
- Area Committees and Forums (Article 10)
- Joint arrangements (Article 11)
- Officers (Article 12)
- Decision making (Article 13)
- Finance, contracts and legal matters (Article 14)
- Review and revision of the Constitution (Article 15)
- Suspension, interpretation and publication of the Constitution (Article 16)

## **How the Council operates**

The Council is composed of 40 councillors elected every four years. Councillors are democratically accountable to residents of their ward. Their overriding duty is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

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

The Council elects the Leader for a four year term of office. The Leader appoints the Deputy Leader and up to 8 other councillors to form the Executive, known as Portfolio Holders. The Leader decides the areas of responsibility to be allocated to the Portfolio Holders. The Leader is held to account by the Council. Article 7 sets out the arrangements for the appointment of the Leader, the Deputy Leader and the Portfolio Holders.

The Council also appoints councillors to other committees.

The Council has agreed procedures to enable the public to take part in Council meetings by asking the Leader, Portfolio Holders and Chairman of Committees, questions and presenting petitions. The procedures are set out in the Public Speaking Rules at Part 4. The Leader of the Council may make an address on the annual state of the Borough at the meeting of the Council which sets the Council Tax.

### **How Decisions Are Made**

The Leader of the Council is responsible for most day-to-day decisions. These decisions can be delegated to the Executive, individual Portfolio Holders, or officers. When major decisions are to be discussed or made, these are published in the Schedule of Key Decisions in so far as they can be anticipated. This is explained further in the Access to Information Procedure Rules in Part 4.

The Executive meets in public except where personal or confidential matters are being discussed. Decisions have to be made in line with the Council's overall policies and budget. 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.

### **Overview and Scrutiny**

There are 3 scrutiny committees, which support the work of the Leader/Executive and the Council as a whole. They allow residents to have a greater say in Council matters by holding inquiries in public into matters of local concern. These lead to reports and recommendations which advise the Leader/Executive and the Council as a whole on its policies, budget and service delivery. Scrutiny committees also monitor the decisions of the Leader and the Executive. They can call-in a decision which has been made by the Leader or the Executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the decision maker reconsider the decision. They may also be consulted by the Leader/Executive or the Council on forthcoming decisions and the development of policy.

### **The Council's Staff**

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services.

Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the Council.

## **Citizens' Rights**

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

Where members of the public use specific council services, they may have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- view a copy of the Constitution on the Council's website or inspect a hard copy at the Council's offices;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- present petitions to Council and ask questions of councillors holding office at meetings of the Council and to make representations about planning applications to the Planning Applications Committee in certain circumstances;
- find out, from the Schedule of Key Decisions, what major decisions are to be discussed or decided by the Leader/Executive, the Council or officers, and when;
- attend meetings of the Executive where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council, the Leader/Executive, the Portfolio Holders and the Council's or Executive's committees;
- complain to the Council about any aspects 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 process;
- complain to the Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. Citizens may obtain further information on their rights by contacting the Executive Head of Corporate.

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## **PART 2**

# **ARTICLES OF THE CONSTITUTION**

<b><u>Article</u></b>	
Article 1	The Constitution
Article 2	Members of the Council
Article 3	Citizens and the Council
Article 4	The Full Council
Article 5	The Mayor
Article 6	Scrutiny/ Select Committees
Article 7	The Leader, the Deputy Leader and the Executive
Article 8	Regulatory and other Committees
Article 9	The Standards Hearing and Determination Committee
Article 10	Area Committees and Forums
Article 11	Joint Arrangements
Article 12	Officers
Article 13	Decision Making
Article 14	Finance, Contracts and Legal Matters
Article 15	Review and Revision of the Constitution
Article 16	Suspension, Interpretation and Publication of the Constitution
Schedule 1	Description of Executive Arrangements

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# **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 Surrey Heath 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 promoting its environmental, economic and social well being, in partnership with citizens, businesses and voluntary and other organisations;
- (b) support the active involvement of citizens in the process of the Council's 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 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 communicate and explain the reasons for decisions; and
- (h) provide a means of maintaining and 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 15.



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

### **2.1 Composition and eligibility**

#### **(a) Composition**

The Council will comprise 40 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State.

#### **(b) Eligibility**

Only registered voters of Surrey Heath or those living or working there will be eligible to hold the office of councillor.

### **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 beginning 2003. By-elections will be held as required. The terms of office of councillors will start on the fourth day after they are 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 be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv) balance different interests identified within the ward and represent the ward as a whole;
- (v) be involved in decision-making;
- (vi) be available to represent the Council on other bodies; and
- (vii) maintain the highest standards of conduct and ethics.

**(b) Rights and duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (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 set out in Part 4 of this Constitution.

**2.4 Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Member and Officer Protocol set out in Part 5 of this Constitution.

**2.5 Allowances**

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

## **ARTICLE 3 - CITIZENS AND THE COUNCIL**

### **3.1 Citizens' rights**

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules and the Public Speaking Procedure Rules set out in Part 4 of this Constitution:

#### **(a) Voting and petitions**

Citizens on the electoral roll for Surrey Heath have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

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

Citizens have the right to:

- (i) attend meetings of the Full Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) attend meetings of the Executive when decisions are being considered except where confidential or exempt information is likely to be discussed;
- (iii) find out from the Schedule of Key Decisions what key decisions will be taken and when;
- (iv) see reports and background papers, unless they are exempt, and any records of decisions made by the Council and the Leader and/or the Executive; and
- (v) inspect the Council's accounts and make their views known to the external auditor.

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

Citizens have the right to present petitions to and ask questions of Councillors at meetings of the Council.

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

Citizens have the right to complain to:

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

- (ii) the Ombudsman after using the Council's own complaints scheme;
- (iii) the Monitoring Officer about a breach of the Members' Code of Conduct set out in Part 5 of this Constitution.

### **3.2 Citizens' Responsibilities**

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



## **ARTICLE 4 - THE FULL COUNCIL**

### **4.1 Meanings**

#### **(a) Policy Framework**

The policy framework means the following plans and strategies:-

- Community Plan;
- Crime and Disorder Reduction Strategy;
- Plans and strategies which together comprise the Development Plan, i.e. the Local Plan;
- Capital Strategy;
- Food Law Enforcement Service Plan;
- The strategy and plan which comprise the Housing Investment Programme
- Licensing Policy
- Gambling Policy

#### **(b) Budget**

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

### **4.2 Functions of the Full Council**

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution except for those matters delegated to officers;
- (b) approving or adopting the policy framework and the budget and setting the Council Tax;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules (set out in Part 4 of this Constitution), making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make a decision in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) making decisions about any matter in the discharge of an executive function where the decision maker is minded to make a decision which would be contrary to the policy framework or

contrary to/or not wholly in accordance with the budget (subject to the urgency procedure contained in the Access to Information Procedure Rules (set out in Part 4 of this Constitution);

- (e) appointing and removing the Leader;
- (f) establishing the Council's Committees;
- (g) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (h) adopting an allowances scheme under Article 2.5;
- (i) changing the name of the area, conferring the title of honorary alderman or freedom of the borough;
- (j) appointing the Head of Paid Service, the Monitoring Officer and the Section 151 Officer;
- (k) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (l) matters which are fundamental to the future strategy or strategies of the Council, affect the whole of the Borough and are matters on which the views expressed, in the opinion of the Chief Executive, should be that of the whole Council.
- (m) all local choice functions which the Council decides should be undertaken by itself rather than the Leader (set out in Part 3 of this Constitution);
- (n) in exceptional circumstances, to determine large-scale planning applications relating to land owned by the Council, or elsewhere if the proposed development is likely to have a very significant impact on the community, as determined by the Executive Head of Regulatory, after consultation with the Leader of the Council and Chairman of the Planning Applications Committee; and
- (o) all other matters which, by law, must be reserved to Council.

#### **4.3 Council meetings**

There are three types of Council meeting:

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

and they will be conducted in accordance with the Standing Orders for Meetings and General Purposes (set out 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.

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## **ARTICLE 5 - THE MAYOR**

### **5.1 Election of Mayor and Deputy Mayor**

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

### **5.2 Role and function of the Mayor**

1. The Mayor will have the following responsibilities
  - (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 members are able to hold the Leader/Executive to account;
  - (d) to promote public involvement in the Council's activities;
  - (e) to act in an impartial and non-political manner so as to promote at all times the best interests of the Council and Borough as a whole; and
  - (f) to attend such civic and ceremonial functions as the Council and he/she determines appropriate.
2. In the absence of the Mayor, the Deputy Mayor will assume the responsibilities of the Mayor.
3. The Mayor or Deputy Mayor may not be the Leader or appointed as a member of the Executive.

### **5.3 Period of Office**

1. The Mayor shall, unless he or she resigns or is disqualified, continue in office until a successor becomes entitled to act as Mayor. The Deputy Mayor shall, unless he or she resigns or is disqualified, hold office until immediately after the election of a Mayor at the next Annual Meeting of the Council.
2. During their terms of office, the Mayor and Deputy Mayor shall continue to be members of the Council notwithstanding the

provisions of the Local Government Act 1972 relating to the retirement of councillors.

## ARTICLE 6 – SCRUTINY/SELECT COMMITTEES

### 6.1 Terms of reference

The Council will appoint overview and scrutiny committees, known as scrutiny or select committees, set out in the left hand column of the table below, to discharge the functions conferred by Section 21 of the Local Government Act 2000 or regulations under Section 32 of the Local Government Act 2000, in relation to the matters set out in the right hand column of the same table.

<b>Committee</b>	<b>Scope</b>
Performance and Finance	Scrutiny of all of the Council's functions.
External Partnerships	Scrutiny of other agencies which affect the economic, social and environmental well-being of the Council's area, including the Health and Wellbeing Board and the Police and Crime Panel and to carry out the statutory crime and disorder function.

### 6.2 General role

The general role of the scrutiny committees is to deliver measurable outcomes, which benefit the effectiveness of the Council and the community and within their terms of reference, scrutiny or select committees will as appropriate:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's executive functions;
- (ii) make reports and/or recommendations to the full Council and/or the Leader/Executive/Portfolio Holder in connection with the discharge of any functions;
- (iii) consider any matter within the scope of the committee affecting Surrey Heath or its inhabitants;
- (iv) undertake investigations into matters relating to the functions of the Council and/or external organisations operating in Surrey Heath as may be referred by the Leader/Executive/Portfolio Holder or the Council;
- (v) following requests for decisions to be scrutinised, consider decisions made by the Leader/Executive/Portfolio Holder or key

decisions taken by officers under the Scheme of Delegation to Officers;

- (vi) deal with any relevant councillor call-for-action in accordance with the protocol at Part 4, Section C of this Constitution; and
- (vii) appoint such Member Panels as they consider necessary to fulfil their overview and scrutiny functions.

### **6.3 Specific functions**

#### **(a) Policy development and review**

Scrutiny committees may:

- (i) assist the Council and the Leader/Executive/Portfolio Holders in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research; community and other consultation in the analysis of policy issues and possible options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question members of the Executive and/or committees and the Chief Executive, Executive Heads of Service or Heads of Service about their views on issues and proposals affecting Surrey Heath; and
- (v) liaise with other external organisations operating in Surrey Heath, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

#### **(b) Scrutiny**

Scrutiny committees may:

- (i) review and scrutinise the decisions made by and performance of the Leader/Executive/Portfolio Holders and/or committees 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 and members of the Executive and/or committees and the Chief Executive, Executive Heads of Service, or Heads of Service about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Leader/Executive/Portfolio Holders and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in Surrey Heath and invite reports from them by requesting them to address the scrutiny committees and local people about their activities and performance;
- (vi) question and gather evidence from any person (with their consent).

**(c) Finance**

Scrutiny committees may exercise overall responsibility for the finances made available to them.

**(d) Minutes**

The Committees will submit minutes of their meetings to the full Council for receipt.

**(e) Work Programme**

Scrutiny committees will decide their own work programme and working arrangements subject to any directions by the Council and/or inclusion of matters referred by the Leader/Executive/Portfolio Holders.

**6.4 Proceedings of overview and scrutiny committees**

Scrutiny committees will conduct their proceedings in accordance with the Scrutiny Committee Procedure Rules set out in Part 4 of this Constitution.

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# **ARTICLE 7 – THE LEADER, THE DEPUTY LEADER AND THE EXECUTIVE**

## **7.1 The Appointment of the Leader**

The Leader will be a councillor elected to the position by the Council. The Leader will hold office for four years from the first annual meeting of the Council following the Borough Council elections, expiring on the day of the post election annual meeting which follows his/her election as Leader, unless, at an earlier date:

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

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.

## **7.2 The Role of the Leader**

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.

The Leader will be Chairman of the Executive.

Only the Leader will exercise the following functions:

- (a) appointment of the Deputy Leader
- (b) appointment of the Executive
- (c) preparation of the Schedule of Key Decisions

### **7.3 The Appointment of the Deputy Leader**

The Deputy Leader will be a councillor appointed to the position of Deputy Leader by the Leader. The Deputy Leader will hold office until the end of the term of office of the Leader, or until:

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

### **7.4 The Role of the Deputy Leader**

- (a) The Deputy Leader will be Vice-Chairman of the Executive.
- (b) 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.

### **7.5 The Form and Composition of the Executive**

The Executive will consist of the Leader and Deputy Leader together with at least 1, but not more than 8, councillors appointed to the Executive by the Leader. The Leader will report the appointments, and any changes to these appointments, to the Council.

### **7.6 The Appointment of Executive Members**

Executive Members will be appointed by the Leader. They will hold office until the day of the post election annual meeting or until:

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

## **7.7 The Role of the Executive**

The Executive 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, as delegated by the Leader.

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 an Executive Member to act in the place of the Leader.

## **7.8 Responsibility for Functions**

- a) The Leader has responsibility for the discharge of all executive functions. He/she can delegate any/all of these functions (except those reserved 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;
  - (vii) local Member in relation to their ward, or
  - (viii) another local authority.
  
- b) The Leader will determine the individual portfolios to be allocated to the Portfolio Holders. A record shall be kept of:
  - (i) the names, addresses and electoral wards of the Members appointed to the Executive by the Leader;
  - (ii) the terms of reference and constitution of any executive committees that the Executive may appoint and the names of Executive Members appointed to them;
  - (iii) the nature and extent of any delegation of executive functions to area committees, individual Executive Members, individual local Members, any other authority or any joint arrangements and the names of those Members appointed to any joint committee.

Where the Leader, Executive, or a committee of the Executive, is responsible for an executive function, they may delegate further to an area committee, joint arrangements, an individual Executive Member, an individual local Member in relation to their ward, or an officer.

Part 3 of this Constitution sets out the responsibility for executive functions exercised by Executive Members. As and when the Leader amends the scheme of delegation in Part 3 relating to executive functions, the proper officer will report to the next meeting of the Council setting out the changes made by the Leader.

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

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

The Council will appoint the following committees as referred to in the left hand column of the table Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in column 3 of that table:

Planning Applications Committee  
Licensing Committee

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## **ARTICLE 9 - THE AUDIT AND STANDARDS COMMITTEE**

### **9.1 Appointment**

The Council will appoint an Audit and Standards Committee at its Annual Meeting.

### **9.2 Membership**

The Audit and Standards Committee will be composed of 7 Members and 4 substitutes and is subject to the rules of political proportionality.

### **9.3 Role and Function**

The main functions of the Audit and Standards Committee are

- (a) To promote and maintain high standards of conduct within the Council and to monitor the operation of the Code of Conduct.
- (b) To hear and determine complaints of alleged breaches of the Codes of Conduct by borough or parish councillors referred to it by the Monitoring Officer.
- (c) To undertake the Council's audit and corporate governance functions.

The statutory roles and functions of the Audit and Standards Committee are set out in full in the Terms of Reference of the Committee at Part 3 of this Constitution.

### **9.4 Dispensations**

The Audit 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.

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# ARTICLE 10 - AREA COMMITTEES AND FORUMS

## 10.1 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 in the context of best value and more efficient, transparent and accountable decision making.

The Council will consult relevant parish councils when considering whether and how to establish area committees.

## 10.2 Form, composition and function

### (a) Table of area committees

The Council will appoint the area committees as set out in the first column of the table below, composed as set out in the second column of that table and with the terms of reference set out in the third column.

<b>Name of Committee</b>	<b>Composition</b>	<b>Terms of Reference</b>
None	Not applicable	Not applicable

### (b) Delegations

The Council and the Leader will include details of the delegations to area committees in Part 3 of this Constitution, including the functions delegated showing which are the responsibility of the Leader/Executive and which are not, the composition and membership of the Committees, budgets and any limitations on delegation.

## 10.3 Conflicts of interest - membership of area committees and overview and scrutiny committees

(a) **Conflict of interest** If an overview and scrutiny committee is scrutinising specific decisions or proposals in relation to the business of the area committee of which the councillor concerned is a member, then the councillor may not speak or vote at the overview and scrutiny committee meeting unless a dispensation has been granted.

(b) **General policy reviews** Where the overview and scrutiny committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

## 10.4 Area committees - access to information

Area committee will comply with the Access to Information Procedure Rules in Part 4 of this Constitution.

Agendas and notices for area committee meetings which deal with both functions of the Leader/Executive and functions which are not the responsibility of the Leader/Executive will state clearly which items are which.

**10.5 Executive members on area committees**

A member of the Executive may serve on an area committee if otherwise eligible to do so as a councillor.

# **ARTICLE 11 - JOINT ARRANGEMENTS**

## **11.1 Arrangements to promote well being**

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

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, 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.

## **11.2 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 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 joint committees with these other local authorities.
- (c) Details of any joint arrangements which have been made, including any delegations to joint committees, are in the Council's Scheme of Delegations in Part 3 of this Constitution.
- (d) In addition to any formal arrangements committees described above, the Council may also enter into joint arrangements with other local authorities on an informal basis.

## **11.3 Appointments to a Joint Committee**

The Leader/Executive may only appoint executive members to a joint committee and those members need not reflect the political composition of the Council except in circumstances where:

- (a) the joint committee has functions for only part of the area of Surrey Heath; and
- (b) that area is smaller than two-fifths of Surrey Heath by area or population.

In such cases, the Leader/Executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area and the political balance requirements do not apply to such appointments.

#### **11.4 Access to information**

- (a) The Access to Information Procedure Rules in Part 4 of this Constitution apply.
- (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 members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### **11.5 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 Council.

#### **11.6 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.

## ARTICLE 12 - OFFICERS

### 12.1 Management structure

**(a) General**

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

**(b) Chief Officers**

The Council will engage persons for the following posts:

Post	Functions and areas of responsibility
Chief Executive	<ul style="list-style-type: none"> <li>• Overall corporate management and operational responsibility (including overall management responsibility for all officers)</li> <li>• Provision of professional advice to all parties in the decision making process.</li> <li>• Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions.</li> <li>• Representing the Council on partnership and external bodies (as required by statute or the Council), governance support, public relations.</li> </ul>
Strategic Directors and Heads of Service	<p>In addition to the service areas identified in the Management Structure at Part 7 of this Constitution, to have the following over-arching functions and responsibilities:</p> <ul style="list-style-type: none"> <li>• To support elected Members of the Council and the Chief Executive to ensure corporate working across services and to help lead the Council so that is it able to meet its immediate and long-term future.</li> <li>• To promote a culture of continuous improvement and develop the capacity and ability of the organisation to learn.</li> <li>• To maintain effective partnerships to assist the Council in delivering the needs and role of the community it serves.</li> <li>• To ensure the operation of robust governance in relation to operational decision making and delivery of services.</li> </ul>

**(c) Head of Paid Service, Monitoring Officer and Section 151 Officer**

The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Head of Legal and Democratic Services	Monitoring Officer
Strategic Director (Section 151 Officer)	Section 151 Officer (Chief Finance Officer under the Local Government Act 1972.)

Such posts will have the functions described in Article 12.2-12.4 below.

**(d) Deputy Monitoring Officer**

A Deputy Monitoring Officer will be appointed from the Council's staff to perform the functions of the Monitoring Officer, where the Monitoring Officer is unable to act.

**(e) Deputy Section 151 Officer**

A Deputy Section 151 Officer will be appointed from the Council's staff to perform the functions of the Section 151 Officer, where the Section 151 Officer is unable to act.

**12.2 Functions of the Head of Paid Service**

**(a) Discharge of functions by the Council.**

The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

**(b) Restrictions on functions.**

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

**12.3 Functions of the Monitoring Officer**

The Monitoring Officer will:-



- (a) maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by councillors, staff and the public;
- (b) after consulting with the Head of Paid Service and Section 151 Officer, 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;
- (c) contribute to the promotion and maintenance of high standards of conduct by Councillors;
- (d) as Proper Officer for access to information, to ensure that Executive decisions together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible;
- (e) advise whether decisions of the Executive are in accordance with the budget and policy framework;
- (f) 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;

The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

#### **12.4 Functions of the Section 151 Officer**

The Section 151 Officer will:-

- (a) after consulting with the Head of Paid Service and the Monitoring Officer, 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) have responsibility for the administration of the financial affairs of the Council;
- (c) contribute to the corporate management of the Council, in particular through the provision of professional financial advice;

- (d) 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) provide financial information to the media, members of the public and the community.

#### **12.5 Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer**

The Council will provide the Monitoring Officer and Section 151 Officer with such officers, accommodation and other resources as are in the opinion of those officers sufficient to allow their duties to be performed.

#### **12.6 Conduct**

Officers will comply with the Code of Conduct for Employees included within Staff Terms and Conditions of Employment and the Member and Officer Protocol set out in Part 5 of this Constitution.

#### **12.7 Employment**

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

## **ARTICLE 13 - DECISION MAKING**

### **13.1 Responsibility for decision making**

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

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

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

- (a) proportionality (i.e. the action must be proportionate to the 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;
- (f) reasonableness; and
- (g) providing information on the options considered and giving reasons for the decision taken.

### **13.3 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) Key decisions are those:
  - likely to result in expenditure release of any securities (except where any release is pursuant to a contractual obligation), or savings of at least £100,000 or £100 million if it relates to treasury management matters, or

there may otherwise be an impact on the Council's financial standing<sup>1</sup>; or

- likely to have a significant impact on people or organisations in two or more wards within the Borough
- which are made in the course of developing proposals to the Council to amend the policy framework.

- (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules.

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

Subject to Article 13.8, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **13.5 Decision making by the Leader/Executive**

Subject to Article 13.8, the Leader/Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **13.6 Decision making by scrutiny committees**

Scrutiny committees will follow the Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

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

Subject to Article 13.8, other Council committees and sub-committees will follow the Committees, Sub Committees and Other Bodies Procedure Rules set out in Part 4 of this Constitution as apply to them.

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

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights and the Human Rights Act 1998.

#### **13.9 Mandatory Training**

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<sup>1</sup> Contract Standing Orders at Part 4 of this Constitution set out how this is applied in relation to the length and value of a contract.

In order to facilitate good quality decision-making, Members are encouraged to attend all relevant training sessions provided by the Council. However the following training is deemed to be mandatory and members who have not undertaken the required training will not be able to take part in the decision-making process:

<u>Training</u>	<u>Decision-making</u>	<u>Required</u>
(a) Planning	Determination of planning applications and any other related consent applications	Annually - All Members of the Planning Applications Committee All Members of the Council when determining large scale planning applications in accordance with Article 4.2 (n)
(b) Licensing	Determination of applications for licenses under the Licensing Act 2003 and Gambling Act 2005.	All Members of the Licensing Committee in order to be eligible to be appointed to the Licensing Sub Committees.
(c) Standards	The hearing and determination of complaints of member misconduct.	All members of the Audit and Standards Committee
(d) Equality	All decisions	All Members
(e) Human Resources	All decisions made by the Employment Committee and its sub committees.	Annually - All members of the Employment Committee

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

### **14.1 Financial management**

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

### **14.2 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in 4 of this Constitution.

### **14.3 Legal proceedings**

The Head of Legal Services 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 Head of Legal Services considers that such action is necessary to protect the Council's interests.

### **14.4 Authentication of documents**

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

Any contract with a value exceeding £50,000 entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing and made under the common seal of the Council attested by at least one officer.

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

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be attached to those documents which in the opinion of the Chief Executive should be sealed. The attaching of the Common Seal will be witnessed by the Head of Legal Services or Chief Executive or some other person authorised by him/her or the Council.

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

### **15.1 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.

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

Any councillor, any committee or the Leader/Executive may submit proposals for changes to this Constitution to the Council, through the Monitoring Officer, for consideration.

Apart from the following exceptions, changes to the Constitution will only be approved by the full Council

- (a) the Executive Head of Corporate who is authorised to amend the Constitution, including the Scheme of Delegation of Functions to Officers in respect of the officers designated to exercise delegated authorities, where changes in the management structure and post titles have resulted from organisational restructures
  
- (b) the Leader/ Executive in respect of amendments to the Scheme of Delegation of Functions to Officers relating to executive functions

The Council must take reasonable steps to consult local electors and other interested persons in the area, and comply with legislative requirements, when drawing up proposals to change from a leader and cabinet form of Executive to an elected mayor and cabinet, or vice versa.

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

## **16.1 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 the 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.

## **16.2 Interpretation**

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

## **16.3 Publication**

- (a) The Monitoring Officer will give a printed copy of this Constitution to Members of the Executive, Group Leaders, the Mayor, and any other Member upon request.
- (b) The Monitoring Officer will ensure that the Constitution is published on the Council's website. Paper copies are available for inspection at council offices and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

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## **SCHEDULE 1: DESCRIPTION OF EXECUTIVE ARRANGEMENTS**

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Scrutiny Committees) and the Scrutiny Committee Procedure Rules;
2. Article 7 (The Leader, Deputy Leader and the Executive) and the Executive Procedure Rules;
3. Article 10 (Area Committees and Forums);
4. Article 11 (Joint arrangements);
5. Article 13 (Decision Making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions).

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## **PART 3**

# **RESPONSIBILITY FOR FUNCTIONS**

<u>Section</u>		<u>Colour</u>
A	Scheme for Delegation of Functions	Pink
B	Scheme of Delegation of Functions to Officers	White
C	Proper Officers of the Council	Cream
D	Roles of Different Councillors	Blue
E	Terms of Reference of the Executive, Committees and other bodies	Green

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# **PART 3 - RESPONSIBILITIES FOR FUNCTIONS**

## **SECTION A**

### **SCHEME FOR DELEGATION OF FUNCTIONS**

#### **1. INTRODUCTION**

- 1.1 The Scheme for Delegation of Functions set out in this Part explains where responsibility for the various functions of the Council is located. It details what body is responsible for which functions in the Council. Elsewhere in this Part the Scheme of Officer Delegations details the extent to which, if at all, any functions have been delegated to officers or other bodies.
- 1.2 The functions which the authority is responsible for are either executive or non-executive. Non-executive functions are those specifically required by statute or designated by the Council to be non-executive functions. These will be exercised by either the full Council, committees appointed by the Council or officers. Executive functions are all those functions which are not non-executive functions and will be exercised by the Leader. The Leader may delegate any/all of the executive functions.
- 1.3 The Scheme for Delegation of Functions shall not extend to powers, duties or functions with respect to the levying of the Council Tax or issuing a rate or precept for a rate, or to the borrowing of money. Neither shall it extend to any powers, duties or functions for which the Council must retain responsibility.

#### **2. TYPES OF FUNCTION**

- 2.1 Functions fall into the following categories:

a) Non-Executive Council Functions.

These are functions which, under the law, may not be the responsibility of the Leader. In some cases, such as adopting the Council's budget or the policy framework, only the full Council meeting may take the decision. In other cases, the Council may delegate the responsibility for taking the decision to a Committee or an officer.

Council functions shall therefore comprise:

- i) those functions which are reserved as Council functions by the Local Government Act 2000 and by subsequent legislation;
- ii) those functions which are reserved as Council functions by Regulation 2 and Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and

subsequent regulations made under the Local Government Act 2000;

- iii) those functions set out in Regulation 3 and Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and subsequent regulations shown at Table 1 below as non-executive functions;
- iv) the adoption or approval of those plans and strategies which form the Policy Framework, being those plans and strategies set out in Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 together with such plans and strategies as the Council shall identify from time to time for this purpose.

Article 4 (The Council) sets out the functions which the Council has decided shall only be carried out by the Full Council.

The Council has determined that certain Council functions shall be carried out by the committees as set out elsewhere in this Part of the Constitution in accordance with their terms of reference, which are set out further in Part 3 of the Constitution.

- b) 'Local Choice' Functions.

'Local Choice' functions are functions which may, by law, be exercised by the Leader or by the Council or a committee or officer of the Council, according to the decision of the Council. Table 2 below sets out the bodies authorised by the Council to undertake these 'local choice' functions identified in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

- c) Shared functions

Table 3 below sets out the bodies authorised by the Council to undertake those functions identified in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as functions which shall not be the sole responsibility of the Leader. The amendment or adoption of the plans and strategies identified in this Schedule shall be the responsibility of the bodies shown except where the amendment, modification, variation or revocations giving 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, or where it has been so authorised by the Council when approving or adopting the plan or strategy, when the responsibility shall be that of the Leader.

- d) Executive Functions.

All functions not otherwise identified in the legislation are executive functions. The Leader may delegate decision-making of his 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;
- (vii) local Member in relation to their ward, or another local authority.

e) Proper Officer Functions.

The purpose of the Proper Officer provisions is to designate people to carry out certain statutory functions. These functions are set out in Part 3 of the Constitution.

f) Delegations to Officers.

The Council and the Leader may authorise designated officers to undertake on their behalf certain of their functions, including some of those listed in the Tables below. Details of these delegations are set out in the Scheme of Officer Delegations set out in Part 3 of the Constitution. A number of powers delegated to officers are also contained in Financial Regulations, as set out in Part 4 of the Constitution.

2.2 This Scheme includes the power for the Council and the Leader to delegate functions to officers or other local authorities.

2.3 Where any Acts or Regulations referred to in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 are amended or repealed the Schedule will be deemed to have been changed to incorporate the appropriate new or amended Act or new or amended Regulation.

2.4 Article 4 (the Council), Article 6 (the Scrutiny Committees), Article 7 (the Leader, Deputy Leader and the Executive) and Article 8 (The Regulatory and Other Committees), as set out in Part 2 of the Constitution, identify the powers of the Council, its committees and the Leader. The terms of reference of these decision-makers are set out in Part 3 of the Constitution.

**Table 1****Responsibility for non-executive functions**

(i.e. the functions identified in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which may not be undertaken by the Leader)

<b>Function</b>	<b>Decision making body</b>
Functions relating to town and country planning, development control and building control insofar as they are the responsibility of the Council as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Planning Applications Committee (except where as provided for in Article 4.2(n).)
Except as otherwise provided in the Licensing Act 2003 and Gambling Act 2005, all functions of the licensing authority prescribed by those Acts.  Functions relating to licensing and registration insofar as they are the responsibility of the Council, other than the licensing of films for public exhibition, as specified in Section B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Licensing Committee
Functions relating to health and safety at work insofar as they are specified in Section C of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Licensing Committee
Functions relating to elections, name and status of areas and individuals and pensions and powers relating to byelaws and local and personal Bills insofar as they are the responsibility of the Council as specified in Sections D, E, F, G and H of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Council
Functions relating to public rights of way and other miscellaneous functions insofar as they are the responsibility of the Council as specified in Section I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Council (functions 23, 36 - 41, 43 - 45, 48) Licensing Committee (functions 22, 30, 31, 42) Planning Applications Committee (functions 32, 46, 47)

**Table 2****Responsibility for local choice functions**

(i.e. the functions identified in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which the Council can choose how to allocate)

<b>Function</b>	<b>Decision making body</b>
Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1.	The Leader
The determination of an appeal against any decision made by or on behalf of the authority (other than staffing or licensing matters).	The Leader
Any function relating to contaminated land. <i>Part IIA of the Environmental Protection Act 1990</i>	Licensing Committee
The discharge of any function relating to the control of pollution or the management of air quality. <i>Pollution Prevention and Control Act 1999, Part IV of the Environment Act 1995, Part I of the Environmental Protection Act 1990, Clean Air Act 1993</i>	Licensing Committee
The service of an abatement notice in respect of a statutory nuisance. <i>Section 80(1) of the Environmental Protection Act 1990.</i>	Licensing Committee
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area. <i>Section 8 of the Noise and Statutory Nuisance Act 1993</i>	Licensing Committee
The inspection of the authority's area to detect any statutory nuisance <i>Section 79 of the Environmental Protection Act 1990</i>	Licensing Committee
The investigation of any complaint as to the existence of a statutory nuisance <i>Section 79 of the Environmental Nuisance Act 1990</i>	Licensing Committee
The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Planning Applications Committee
The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	The Leader
The making of agreements for the execution of highway works.	Council

<b>Function</b>	<b>Decision making body</b>
<i>Section 278 of the Highways Act 1980</i>	
<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 (i) the authority or (ii) a joint committee of two or more authorities</p> <p>(c) to any committee or sub-committee of such a body and the revocation of any such appointment</p>	Council
The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	The Leader

**Table 3**

**Functions not to be the sole responsibility of the Leader**

The functions identified in the table may be considered by the Leader and will be so considered where there are budgetary implications.

<b>Plan or Strategy</b>	<b>Responsibilities</b>
Sustainable Community Strategy <i>Section 4 of the Local Government Act 2000</i>	The Leader recommending to Council
Crime and Disorder Reduction Strategy (locally known as the Surrey Heath Community Safety Strategy) <i>Sections 5 and 6 of the Crime and Disorder Act 2000</i>	The Leader recommending to Council
Plans and alterations which together comprise the Development Plan <i>Section 54 of the Town and Country Planning Act 1990</i>	The Leader recommending to Council

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# **PART 3 – RESPONSIBILITIES FOR FUNCTIONS**

## **SECTION B**

### **SCHEME OF DELEGATION OF FUNCTIONS TO OFFICERS**

#### **General Principles**

#### **Statutory Officers**

Head of Paid Service

The Returning Officer and Electoral Registration Officer

The Monitoring Officer

The Section 151 Officer

#### **Chief Executive**

**Strategic Director – Finance & Customer Services**

**Strategic Director – Environment & Community**

**Head of HR, Performance & Communications**

**Head of Investment & Development**

**Head of Legal & Democratic Services**

**Head of Planning**

## **Part 3 – Section B**

### **SCHEME OF DELEGATION OF FUNCTIONS TO OFFICERS**

#### **General Principles**

#### **1. Powers**

- 1.1 This Scheme of Delegation is made pursuant to the Local Government Act 1972 Section 101 and by reference to Section 100G and the Local Government Act 2000 Section 15 and The Local Authorities (Functions and Responsibilities) (England) Regulations 2000/2853 (as amended) and all other enabling powers.
- 1.2 The powers in this Scheme of Delegation are only exercisable within the limitations in the Scheme and are subject to the provisions of the Council's Constitution, including Financial Regulations, Contracts Procedural Rules and the Council's Procurement Strategy.
- 1.3 Where the Council, a Committee, Sub-Committee, the Leader, the Executive, Portfolio Holder or this Scheme of Delegation gives authority for any action, the officer designated shall be entitled to take all necessary steps for the doing of such thing.
- 1.4 In the event that a Strategic Director or a Head of Service's post ceases to exist or his or her responsibilities are transferred to another Strategic Director or Head of Service (as the case may be), temporarily or permanently, then the powers given by this Scheme of Delegation shall be exercisable by the officer in whose area of responsibility the power falls to be exercised.
- 1.5 The delegation of a decision to an officer does not preclude that officer referring a matter to the appropriate decision making body when that officer considers it appropriate, unless otherwise prevented by legislation.

#### **2. Exercise of Functions**

- 2.1 All decisions by officers made under this Scheme of Delegation, may only be exercised provided they are within budgetary provision and in accordance with proper authorities, in particular Financial Regulations.
- 2.2 The Chief Executive may appoint one or more deputies to exercise his or her functions owing to absence or illness and such deputies are

authorised to exercise the functions of the Chief Executive pursuant to the Constitution, Financial Regulations and this Scheme of Delegation.

- 2.3 The Chief Executive may exercise the powers delegated to any Strategic Director or Head of Service except in relation to those functions allocated to the chief finance officer (within the meaning of Section 151 of the Local Government Act 1972 and Section 112-114A of the Local Government Finance Act 1988) and to the Monitoring Officer (within the meaning of Sections 5, 5A of the Local Government and Housing Act 1989).

### **3. Sub-Delegation Scheme**

- 3.1 Where the Chief Executive, Strategic Director or Head of Service, are authorised to take decisions, action to implement such decisions will be taken
- 3.1.1 in the name of (but not necessarily personally by) the Chief Executive, Strategic Director or Head of Service; or
- 3.1.2 by any other officer authorised by Chief Executive, Strategic Director or Head of Service to take such action in their name or the sub delegates own name.
- 3.2 The Chief Executive, Strategic Directors and each Head of Service must prepare and maintain a Sub-Delegation Scheme setting out which officers have been authorised to make decisions under their delegated powers and subject to which terms and conditions. Sub-delegation Schemes must be lodged with the Democratic Services Manager.
- 3.3 Where delegations are to be exercised after consultation with the Leader, Portfolio Holder, Group Leaders, ward members or nominated officers, the authorised officer will carry out the consultation and ensure that a record is made.
- 3.4 Where delegations are to be exercised after consultation with a Portfolio Holder and that Portfolio Holder is unavailable, consultation shall take place with the Leader.
- 3.5 Where delegations are to be exercised after consultation with other officers, if agreement between officers cannot be reached, the matter must be referred to the Chief Executive for consideration.

### **4. Urgent Action**

- 4.1 The Chief Executive, Strategic Director or Head of Service are authorised to determine matters of an urgent nature which cannot wait for the next

meeting of the decision-making body which are not key decisions and which do not contravene established policies or budgets,

- 4.1.1 after consultation with the Leader and Mayor in relation to Council functions;
  - 4.1.2 after consultation with the Leader or relevant Portfolio holder and with the Chairman or Vice-Chairman of the relevant Scrutiny Committee in relation to Executive functions;
  - 4.1.3 after consultation with the Chairman or Vice Chairman of the relevant regulatory Committee.
- 4.2 All Members will be advised by email as soon as a decision has been made and that decision will also be reported to the next meeting of the appropriate decision-making body.

## **5. Policy Development and Review**

- 5.1 Subject to paragraph 5.3, as a general principle, the adoption and agreement of any new policies is reserved to the Council, Executive or relevant Committee.
- 5.2 Authority to make non-material amendments to adopted policies is delegated to the Chief Executive, Strategic Directors and Heads of Service, except:
  - 5.2.1 Planning Policy documents, which is reserved to the Executive
  - 5.2.2 Human Resources Policies and Procedures, which is reserved to the Employment Committee
- 5.3 The Head of Legal & Democratic Services is authorised, after consultation with the relevant Portfolio Holder or Committee Chairman, to amend policies to reflect changes in legislation or correct errors or inconsistencies.

## **6. Finance and Budgets**

- 6.1 The Chief Executive, Strategic Directors or Heads of Service are authorised to set annual discretionary fees and charges after consultation with the Leader or relevant Portfolio Holder and Executive Head of Finance, as set out in Financial Regulations.
- 6.2 The Chief Executive, Strategic Directors, Heads of Service, or Returning Officer are authorised to vire amounts specified in revenue budget

headings in accordance with Financial Regulations, subject to the approval of Corporate Management Team.

- 6.3 Financial Regulations at Part 4 of this Constitution contain a number of authorisations to officers. All financial decisions made by officers must be taken in accordance with Financial Regulations or as otherwise authorised in this Scheme of Delegation.
- 6.4 No officer may release any security, warranty or guarantee in favour of the Council, unless contractually obliged to do so, without the written approval of the Council's Section 151 officer or the Executive/ relevant Committee;

## **7. Awarding of Contracts**

- 7.1 All contracts must be awarded in accordance with the Contract Standing Orders at Part 4 of this Constitution.
- 7.2 Subject to any financial limits set out in the Contract Standing Orders and below, the Chief Executive, Strategic Directors and Heads of Service are authorised to award contracts as necessary for the day to day running of their service.
- 7.3 The Chief Executive, Strategic Directors and Heads of Service are authorised to award contracts up to a value of £100,000 as defined in Contract Standing Orders. All contracts of a value of £100,000 or more are reserved to the Executive, unless a decision is made by the Executive to delegate authority to award a contract. Contract Standing Orders specify how this relates to the lifetime of a contract.

## **8. Bids for Grant Funding**

- 8.1 The Chief Executive, Strategic Directors and Heads of Service are authorised to submit speculative bids for grant funding where no resource commitment is made to the Council at that stage. Where the bid is successful and will have a notable and/ or material impact on resources, any decision will be subject to a report to the Executive or relevant committee setting out a full business case.

## **9. Response to Consultations**

- 9.1 The Chief Executive, Strategic Directors and Heads of Service are authorised to submit responses to consultations, after consultation with the relevant Portfolio Holder or Committee Chairman, as appropriate.

9.2 All Members will be advised of the consultation and any comments received will be taken into account. Where appropriate and time permits, draft responses will be submitted to Working Groups for consideration.

## **10. Schedule of Authorisations**

10.1 A schedule of authorisations is attached at Appendix 1.

## **11. Amendments**

11.1 Amendments to this Scheme will be approved as follows:

11.1.1 Non-executive functions – by the full Council

11.1.2 Executive functions - by the Leader/Executive

11.1.3 in respect of the officers designated to exercise delegated authorities where changes in the management structure and post titles have resulted from organisational restructures – by the Head of Legal & Democratic Services.

11.1.4 updates to reflect new legislation where there is no extension to the limit of the existing delegation – the Monitoring Officer.

## **12. Interpretation**

12.1 Any reference to a statute or statutory instrument should be taken to include any subsequent statute or statutory instrument that replaces, amends or extends it, or contains related provisions.

12.2 The terms “officer”, “staff” or “employee” include any person employed by the Council irrespective of the particular terms and conditions under which they are employed.

12.3 Where a delegation is shown as being both an Executive and Non-Executive Function, advice should be sought from the Monitoring Officer regarding the individual circumstances.

## **Schedule of Authorisations**

### **1. Legal Proceedings**

- 1.1 In accordance with Article 14 of the Constitution the Head of Legal & Democratic Services is authorised to institute legal proceedings in respect of all functions of the Council.
- 1.2 The Strategic Director of Finance & Customer Services and Head of Legal & Democratic Services are authorised to investigate and prosecute using the powers contained within the Prevention of Social Housing Fraud Act 2013 and any current or amending legislation relating to fraudulent acts associated with the provision of social housing.
- 1.3 The Head of Legal & Democratic Services is authorised to institute criminal or civil proceedings in respect of any corporate fraud offence on behalf of the Council or the DWP or any other relevant stakeholder and/or partner.

### **2. Representing the Council in Legal Proceedings**

- 2.1 The Head of Legal & Democratic Services is authorised to appoint any appropriate officer to appear on behalf of the Council and to conduct legal proceedings or complete formal proof in court or tribunal. A record of those officers so appointed will be kept by the Head of Legal & Democratic Services in accordance with the Sub Delegation Scheme.

### **3. Land, premises, samples, records, articles, equipment or information**

- 3.1 The Chief Executive, Strategic Director, Head of Service, and any other officer authorised by those officers, are authorised to
  - 3.1.1 enter, visit or inspect premises,
  - 3.1.2 procure samples,
  - 3.1.3 inspect, seize, detain or destroy any goods, articles or equipment;
  - 3.1.4 inspect, seize and detain any records, including records held in electronic form;
  - 3.1.5 demand or require information

in accordance with and as provided for by any legislation covering any Council function.
- 3.2 The Chief Executive, Strategic Director, Head of Service, and any other officer authorised by those officers, may apply to the Justices of the

Peace to obtain warrants to enter premises as provided for by any legislation covering any Council function.

- 3.3 A record of any other officers authorised as set out above, will be kept by the Chief Executive, Strategic Director or Head of Service as appropriate in accordance with the Sub Delegation Scheme referred to in the General Principles.

#### **4. Instruments of Appointment**

- 4.1 The Chief Executive is authorised to issue Instruments of Appointment to the Strategic Director of Environment & Community as an inspector under the Health & Safety at Work Act 1974 and associated Acts together with all related Regulations and Orders specifying the powers exercisable, having regard to that inspector's qualifications and duties.
- 4.2 The Strategic Director of Environment & Community is authorised to issue Instruments of Appointment to an inspector under the Health & Safety at Work etc Act 1974 and associated Acts together with all related Regulations and Orders specifying the powers exercisable having regard to that inspector's qualifications and duties.

#### **5. Serving of Notices**

- 5.1 The Chief Executive, Strategic Director, Head of Service and any other authorised officer employed by the Council are authorised to serve any statutory notices as provided for by any legislation covering any Council function. A record of any other officers so authorised will be kept by the Chief Executive, Strategic Director or Head of Service as appropriate in accordance with the Sub Delegation Scheme referred to in the General Principles.
- 5.2 Electronic signatures are acceptable for the purpose of executing any documents, unless prevented by law.

#### **6. Cautions**

- 6.1 The Chief Executive, Strategic Director, Head of Service and any other officer authorised by those officers, are authorised to act as Cautioning Officer in order to issue cautions to persons making a clear and reliable admission of an offence, where it is considered that the use of a formal caution is appropriate. A record of any other officers so authorised will be kept by the Chief Executive, Strategic Director or Head of Service as appropriate in accordance with the Sub Delegation Scheme referred to in the General Principles.

#### **7. Appeals**

- 7.1 Unless otherwise reserved to the Council, the Executive, a Committee or Sub Committee, as set out in their Terms of Reference, the Chief



Executive, Strategic Director, Head of Service and any other officer authorised by those officers, are authorised to hear appeals as provided for by any legislation covering any Council function and in accordance with Council Policies. A record of any other officers so authorised will be kept by the Chief Executive, Strategic Director or Head of Service as appropriate in accordance with the Sub Delegation Scheme referred to in the General Principles.

## **8. Regulation of Investigatory Powers Act 2000**

- 8.1 The Chief Executive is authorised to agree the use of a covert human intelligence source where that source is a vulnerable person or a juvenile or where knowledge of confidential information is likely to be acquired under the Regulation of Investigatory Powers Act 2000.
- 8.2 The Strategic Director of Environment & Community , the Strategic Director of Finance & Customer Services and the Head of Planning are authorised
  - 8.2.1 to agree the use of directed surveillance under Section 28 of the Regulation of Investigatory Powers Act 2000; and the use of covert human intelligence sources under Section 29 of the Regulation of Investigatory Powers Act 2000;
  - 8.2.2 as a Designated Person, to issue a Notice/Authority under Chapter II Part 1 of the Regulation of Investigatory Powers Act 2000 requiring communications data to be obtained and disclosed; and
  - 8.2.3 to undertake directed surveillance pursuant to Section 28 of the Regulation of Investigatory Powers Act 2000.
- 8.3 The Head of Legal & Democratic Services is authorised
  - 8.3.1 after consultation with the appropriate portfolio holder and the Leader of the Council, to amend the Regulation of Investigatory Powers Act 2000 Policy and Procedure, to reflect changes to the legislation or for better performance of the Policy.
  - 8.3.2 to add to, or delete from, the list of authorised officers in Annex 1 of the Policy and Procedure pursuant to the Regulation of Investigatory Powers Act 2000.
- 8.4 The Head of Legal & Democratic Services is authorised to act as the Council's Single Point of Contact for the purposes of accessing and disclosing communications data under Chapter II Part 1 of the Regulation of Investigatory Powers Act 2000.

## **9. Response to Matters of Public Health and Protection**

- 9.1 The Consultant in Communicable Diseases Control is authorised by the Council to carry out the following actions:
- 9.1.1 To apply to Justices for orders and certificates with a view to preventing spread of disease.
  - 9.1.2 To apply to Justices for orders and certificates for the removal of aged or infirm persons to hospital, after consultation with the patient's General Practitioner and the Strategic Director of Environment & Community.
  - 9.1.3 To serve notices relating to infected food and control of notifiable diseases.

## **10. Response to Pandemics**

- 10.1 The Strategic Director of Environment & Community is appointed as the designated officer for the purposes of legislation or statutory guidance relating to health and public protection, in so far as they relate to functions of the Council.
- 10.2 The Strategic Director of Environment & Community will be appointed as the designated officer or equivalent in response to a national or local pandemic, as declared by the Government or Surrey Local Resilience Forum. The Strategic Director of Environment & Community and Head of Legal & Democratic Services will be authorised to appoint officers to undertake any necessary enforcement arising from the pandemic.

## Statutory Officers

### Head of Paid Service

	<b>Authority</b>	<b>Function</b>
1.	<p>To make all decisions in relation to Human Resources functions in accordance with the Council's Policies and within budgetary provision, except (a), (b), (c), and (d) below which are reserved to Full Council, (e) and (f) which are reserved to the Employment Committee, and (g) which is reserved to the Appointments Sub Committee:</p> <p>(a) the appointment of the Chief Executive and the statutory posts;</p> <p>(b) the adoption of the annual Pay Policy Statement;</p> <p>(c) the approval of and amendments to the Pension Policy Statement;</p> <p>(d) the settlement of any staff pay award;</p> <p>(e) amendments to Terms and Conditions of Employment for Staff and Human Resources Policies;</p> <p>(f) any other decisions identified in the Employment Committee's Terms of Reference; and</p> <p>(g) the appointment of Executive Heads and Heads of Service.</p>	Non-executive
2.	To undertake any functions designated to the Head of Paid Service in legislation.	Non-executive

### The Returning Officer and Electoral Registration Officer

	<b>Authority</b>	<b>After Consultation with</b>	<b>Function</b>
1.	Within the approved budget, to approve scales of remuneration of persons employed on Borough and Parish Council elections.	Other local authorities in Surrey.	Non-executive
2.	<p>To amend the designation of a Polling Place, where within six months of an election,</p> <p>(a) a designated polling place unexpectedly</p>	Ward councillors, local party agents and, if applicable, official candidates.	Non-Executive

## Statutory Officers

	becomes unavailable; and  (b) it is impractical to report to Council.		
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### The Monitoring Officer

	Authority	After Consultation with	Function
1.	To appoint any Directorships for Council-owned companies or companies part-owned by the Council.	The Leader	Executive

	Authority	Function
1.	The general delegations and authorisations for the Monitoring Officer are as set out in the Constitution at Article 12, the Members' Code of Conduct Part 5 Section A, and the Monitoring Officer Protocol at Part 5, Section J.	Non Executive
2.	To undertake any functions designated to the Monitoring Officer in legislation.	Non- executive

### The Section 151 Officer

	Authority	Function
1.	The delegations and authorisations for the Section 151 Officer are as set out in the Constitution at Article 12, and Financial Regulations at Part 4, Section H.	Executive
2.	To undertake any functions designated to the Section 151 Officer in legislation.	Non- executive or Executive depending on the function

## Chief Executive

### Meetings, Members and the Constitution

	Authority	After Consultation with	Function
2.	To appoint members to the Independent Remuneration Panel.	The group leaders.  All decisions to be reported to all Members by email.	Non-Executive
3.	In respect of ad hoc appointments during the year, to appoint or nominate members and representatives on outside bodies; to appoint trustees; and to identify the meetings of outside bodies which are an approved duty for paying allowances.	The group leaders.  All decisions to be reported to all Members by email.	Non-Executive
4.	To review decisions to list in the List of Assets of Community Value and to review decisions in relation to claims for compensation.	The relevant Portfolio Holder	Executive
5.	To approve the annual timetable of meetings of the Council and Standing Committees.	The Leader	Non-Executive

	Authority	Function
6.	To make changes to the membership of any of the Council's Committees or working groups as necessary during the Council year in accordance with the wishes of the respective group leader. Any changes made to the Committees to be reported to the next meeting of the Council.	Non-Executive
7.	To make changes to the membership of any of the Executive Working Groups as necessary during the Council year in accordance with the wishes of the respective group leader.	Executive
8.	Where there is uncertainty on whether the effect of an Executive decision is "significant", to decide whether a decision is to be regarded as a Key Decision.	Executive
9.	Following the receipt of representations received in relation to the intention to consider an item in the private part of an Executive meeting, to decide whether an item should continue to be considered in private and to formulate the response.	Executive

## Strategic Director – Environment & Community

### Arts and Leisure

1.			
2.	To agree the replacement of playground equipment on a like for like basis where the project is within existing budget or funds have previously been agreed	The relevant Portfolio Holder and ward councillors	Executive

	Authority	Function
1.	To make all day to day management decisions relating to the Camberley Theatre and Conference Centre.	Executive
2.	To make all day to day management decisions relating to the Council's Leisure and Green Space functions.	Executive

### Burial or Cremation

	Authority	Function
1.	To arrange the burial or cremation of persons for whom no other suitable arrangements for the disposal of their remains have been made (under Section 46 of the Public Health (Control of Disease) Act 1984) and any necessary administration of the deceased's estate in liaison with the Treasury Solicitor.	Executive

### Car Parking

	Authority	Function
1.	To make all day to day management decisions relating to the management and use of the Council's car parks, except for the following which are reserved to the Executive:  (a) The adoption of and amendments to the Council's Car Parking Strategy; (b) The setting of off street car parking charges.	Executive

### Closure of Streets

	Authority	Function
1.	To make and issue temporary street closures orders in connection with special events in accordance with Section 21 of the Town Police Clauses Act 1847.	Executive

## Strategic Director – Environment & Community

### Community Safety

	Authority	Function
1.	To carry out the Council's functions and any actions authorised by the Community Incident Action Group, relating to anti-social behaviour, in accordance with the Anti-Social Behaviour Crime and Policing Act or subsequent legislation.	Executive

### Environmental and Community Protection

	Authority	Function
1.	<p>To make all decisions in accordance the Council's adopted policies, under the following Acts</p> <ul style="list-style-type: none"> <li>(i) the Control of Pollution Act 1974</li> <li>(ii) the Environmental Protection Act 1990</li> <li>(iii) Dangerous Dogs Act 1991</li> <li>(iv) Noise &amp; Statutory Nuisance Act 1993</li> <li>(v) the Environment Act 1995</li> <li>(vi) the Noise Act 1996</li> <li>(vii) the Dog (Fouling of Land) Act 1996</li> <li>(viii) The Anti-Social Behaviour Crime and Policing Act 2014</li> <li>(ix) Clean Neighbourhoods and Environment Act 2005</li> <li>(x) the Health Act 2006</li> <li>(xi) the Refuse Disposal (Amenity) Act 1978</li> </ul> <p>Sunday Trading Act 1994 legislation and statutory guidance, and to take all actions relating to the Council's functions, including but not limited to the following:</p> <ul style="list-style-type: none"> <li>A. <i>Pollution control</i></li> <li>B. <i>air pollution control and clean air;</i></li> <li>C. <i>smoke free premises and vehicles</i></li> <li>D. <i>Waste collection</i></li> <li>E. <i>Recycling</i></li> <li>F. <i>Controlled waste</i></li> <li>G. <i>Contaminated land</i></li> <li>H. <i>Statutory nuisance</i></li> <li>I. <i>Litter</i></li> <li>J. <i>Dangerous and Out of Control dogs</i></li> <li>K. <i>Dog fouling</i></li> <li>L. <i>Authorisations in relation to controlled processes</i></li> <li>M. <i>High Hedges complaint</i></li> <li>N. <i>graffiti removal</i></li> <li>O. <i>noise nuisance</i></li> <li>P. <i>abandoned vehicles and other refuse</i></li> </ul>	Executive

## Strategic Director – Environment & Community

	<p>Q. <i>prevention of crime and disorder</i></p> <p>R. <i>Drug and alcohol abuse/misuse of substances</i></p> <p>S. <i>Controlled Trading Hours</i></p> <p>T. <i>Control of weeds</i></p>	
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### Environmental Health

	Authority	Function
1.	<p>To make all decisions in accordance the Council's adopted policies under the following Acts</p> <p>the Local Government Act 1972</p> <p>the Local Government (Miscellaneous Provisions) Act 1976</p> <p>the Local Government (Miscellaneous Provisions) Act 1982</p> <p>the Public Health Act 1936</p> <p>the Public Health Act 1961</p> <p>the Public Health (control of diseases) Act 1984</p> <p>the Clean Neighbourhoods</p> <p>the Environment Act 2005</p> <p>and any subsequent legislation and statutory guidance, and to take all actions relating to the Council's functions, including but not limited to the following:</p> <p>(a) <i>drains, private sewers, water closets or soil pipes</i></p> <p>(b) <i>a satisfactory supply of wholesome water</i></p> <p>(c) <i>the control rats and mice</i></p> <p>(d) <i>filthy or verminous premises, articles or persons</i></p> <p>(e) <i>the prevention and suppression of nuisances</i></p> <p>(f) <i>emergency situations arising outside normal working hours.</i></p> <p>(g) <i>Boarding up of empty properties</i></p> <p>(h) <i>Infectious disease control</i></p>	Executive

### Food and Safety

	Authority	Function
1.	<p>To make all decisions in accordance the Council's adopted policies</p> <p>(i) the European Communities Act 1972</p> <p>(ii) the Food and Environmental Protection Act 1985</p> <p>(iii) the Food Safety Act 1990,</p> <p>(iv) the Health &amp; Safety at Work etc. Act 1974</p> <p>(v)</p>	Non Executive/ Executive



## Strategic Director – Environment & Community

	<p>and any associated regulations and any subsequent legislation and statutory guidance, and to take all actions relating to the Council's functions in respect of food and health &amp; safety and pesticides, except the following which are reserved to the Licensing Committee</p> <p>(a) Food Safety Service Plan (b) Health and Safety Service Plan</p>	
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### Housing and Homelessness

	Authority	After Consultation with	Function
1.	To review decisions taken under the Personal Files (Housing) Regulations Act 1989 concerning access to, or correction or erasure of information held in housing records of which a tenant (or member of his family) is aggrieved.	The relevant Portfolio Holder	Executive

	Authority	Function
2.	<p>To make all decisions in relation to the Council's Housing and Homelessness functions except the following which are reserved to the Executive:</p> <p>(a) Policy for the Allocation of Social Housing (b) Tenancy Strategy</p>	Executive

### Licensing

	Authority	After Consultation with	Function
1.	<p>On behalf of the Council, to submit objections and pursue such objections at a public inquiry if needed to:</p> <p>(a) applications for operators licences (including variations) made under the Goods Vehicles (Licensing of Operators) Act 1995; and</p>	The appropriate ward councillors.	Non-executive

## Strategic Director – Environment & Community

	<b>(b) reviews undertaken of existing licences.</b>		
<b>2.</b>	<b>The determination of applications for street collections to provide funding to meet a major local/national/international disaster.</b>	<b>The Chairman of the Licensing Committee.</b>	<b>Non-executive</b>

	<b>Authority</b>	<b>Function</b>
<b>3.</b>	<p>To make all decisions in accordance the Council's adopted policies under the following Acts</p> <ul style="list-style-type: none"> <li>(i) The Town and Police Clauses Act 1847</li> <li>(ii) the Public Health Act 1936 and 1961</li> <li>(iii) The Pet Animals Act 1951</li> <li>(iv) Caravan Sites and Control of Development Act 1960</li> <li>(v) Animal Boarding Establishments Act 1963</li> <li>(vi) Riding Establishments Acts 1964 and 1970</li> <li>(vii) Dangerous Wild Animals Act 1976</li> <li>(viii) Local Government (Miscellaneous Provisions) Act 1976</li> <li>(ix) the Local Government (Miscellaneous Provisions) Act 1982,</li> <li>(x) Animal Welfare Act 2006</li> <li>(xi) Animal Health Acts 1981 and 2002</li> <li>(xii) Licensing Act 2003,</li> <li>(xiii) the Gambling Act 2005</li> <li>(xiv) the Legislative and Regulatory Reform Act 2006</li> <li>(xv) the Scrap Metal Dealers Act 2013</li> <li>(xvi) the Animal Welfare (licensing of activities involving animals) (England) Regulations 2018</li> <li>(xvii) Business and Planning Act 2020</li> </ul> <p>and any subsequent legislation and statutory guidance, to take all actions relating to the Council's licensing functions, including but not limited to the following:</p> <ul style="list-style-type: none"> <li><i>A. Personal, premises, club premises licences and Temporary Event Notices</i></li> <li><i>B. Hackney carriage and private hire drivers and vehicles, and private hire operators</i></li> <li><i>C. House to house and street collections</i></li> <li><i>D. Street trading</i></li> <li><i>E. Club gaming/club machine permits and small society lotteries</i></li> <li><i>F. Gambling and gaming activities</i></li> <li><i>G. Sexual Entertainment Venues</i></li> </ul>	Non Executive

## Strategic Director – Environment & Community

	<p><i>H. Scrap metal dealers</i></p> <p><i>I. Animal boarding establishments, riding establishments, dog breeders, pet shops, animal exhibitions, dangerous wild animals and zoos</i></p> <p><i>J. Animal Health and Welfare</i></p> <p><i>K. Caravan, camping sites and gypsy sites</i></p> <p><i>L. Tattooing, acupuncture, ear piercing, body piercing and electrolysis</i></p> <p><i>M. Pavement licences</i></p> <p>except for</p> <p>(a) approval of and amendments to the Statement of Licensing Policy and the Gambling Policy which are reserved to Council;</p> <p>(b) approval and amendments to policies relating to functions under the Acts set out above which is reserved to the Licensing Committee;</p> <p>(c) approval of increases, decreases or suspension of the hackney carriage fare scale, which is reserved to the Licensing Committee;</p> <p>(d) the designation of and amendments to hackney carriage vehicle ranks which is reserved to the Licensing Committee;</p> <p>(e) the power to make an Order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption which is reserved to the Licensing Committee;</p> <p>(f) all applications and appeals reserved to the Licensing Sub Committee as set out in its Terms of Reference at Part 3, Section E of the Constitution.</p>	
4.	<p>On behalf of the Council as the Responsible Authority for Environmental Health, the Responsible Authority for Health and Safety, or the Responsible Authority for Licensing, under the Licensing Act 2003, subsequent amendments and all relevant legislation and regulations:</p> <p>(a) to make a relevant representation</p> <p>(b) to apply for a review of a premises licence</p> <p>(c) to apply for a review of a club premises certificate</p>	Non Executive

## Strategic Director – Environment & Community

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### Private Sector Housing

	Authority	After Consultation with	Function
1.	To determine the charges for default works undertaken pursuant to the Public Health and Housing Acts and the clearance of private drains and private sewers, all in respect of Environmental Protection legislation.	The relevant Portfolio Holder	Executive

	Authority	Function
1.	To undertake all actions relating to the Council's functions under the Housing Grants, Regeneration and Construction Act 1996 and any subsequent legislation, including but not limited to the following:  (a) Disabled facilities grants (b) Renovation grants (c) common parts grants, (d) house in multiple occupation grants (e) major repair grants	Executive
2.	To undertake all actions relating to the Council's functions under the Regulatory Reform (Housing Assistance) (England & Wales) Order 2002 for the securing of loans given for the improvement or repair of dwellings as a formal Land Charge.	Executive
3.	To undertake all actions relating to the Council's functions under the Housing Acts and any subsequent legislation regard to unfit housing and houses in multiple occupation.	Executive
4.	To administer and approve loans under the Flexible Improvement Loans Scheme.	Executive

### Town Twinning

	Authority	After Consultation with	Function
1.	To agree grants for town partnership activities within the budget provision.	The relevant Portfolio Holder.	Executive

## Strategic Director – Environment & Community

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### Waste and Recycling

	Authority	Function
2.	To waive payment for the collection of household refuse at mixed hereditaments where a clearly defined dwelling exists separately from business premises.	Executive

## Strategic Director – Finance & Customer Services

### Assets of Community Value

	Authority	Function
1.	To make decisions in relation to compensation claims relating to the List of Assets of Community Value.	Executive

### Council Tax and NNDR

	Authority	After Consultation with	Function
1.			
2.	To agree to enter into or exit any arrangements for the pooling of Business Rates.	The relevant Portfolio Holder.  Members of the Performance & Finance Scrutiny Committee to be notified.	Executive

	Authority	Function
1.	To apportion rates under Section 44A of the Local Government Finance Act 1988, and any subsequent legislation, on premises partially unoccupied for short periods.	Executive
2.	To grant applications for discretionary rate relief which meet the adopted criteria and can be funded within the approved budget.	Executive
3.	To execute warrants of arrest for Council Tax and Non-Domestic Rate debts.	Executive

### Financial Management

	Authority	After Consultation with	Function
1.	To grant discounts on market rents in accordance with the Community Rent Discount Framework.	The relevant Portfolio Holder, and taking into account any information received from local ward members.	Executive
2.	To monitor and manage the revenue reserves and provisions of the Council, including the release of	The Chief Executive and the relevant Portfolio Holder.	Executive

## Strategic Director – Finance & Customer Services

	such funds within agreed policy guidelines.	
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	Authority	Function
3.	To determine areas and levels of cover for insurance.	Executive
4.	To approve spending from the Insurance Fund in individual projects or a group of related projects or a group of related items up to a maximum of £20,000.	Executive
5.	To determine rates of interest payable under:  (a) Public Health Acts and Housing Acts (rechargeable works executed by the Council)  (b) Local Government (Miscellaneous Provisions) Act 1976 (dangerous trees and restoration of supplies).	Non-Executive

### General

	Authority	Function
1.	To make all day to day management decisions relating to the Council's functions as they relate to customer services.	Executive

## Head of HR, Performance and Communication

### Human Resources

	Authority	After Consultation with	Function
1	To suspend a Statutory Officer at short notice in accordance with the provisions set out at Part 4, Section J of the Constitution	Chairman of the Employment Committee	Non-executive

### Voluntary Organisations and Community Grants

	Authority	After Consultation with	Function
1.	To agree Service Level Agreements with voluntary organisations	The relevant Portfolio Holder.	Executive
2.	To award grants in accordance with the Council's adopted policies for revenue, community and leisure grant schemes except the following which are reserved to the Executive  1) Annual Revenue and Leisure Grants 2) Community Fund Grants Scheme	The relevant Portfolio Holder.  The relevant ward councillors as required.	Executive

### General

	Authority	Function
1.	To make all day to day management decisions relating to the Council's functions as they relate to media and marketing.	Executive



## Head of Investment & Development

### Estate Management

	<b>Authority</b>	<b>After Consultation with</b>	<b>Function</b>
1.	To agree, with Laser, or any other supplier as agreed by the Council, changes to the cost of supplying gas and electricity services at different times within the contract period in accordance with the terms of the contract.	The relevant Portfolio Holder	Executive
2.	To approve expenditure from the Repairs and Maintenance Fund on individual or related items up to £20,000.	The Leader or the appropriate Portfolio Holder	Non-executive or Executive as appropriate to the function being exercised.
3.	To seek permission for development to be carried out by the Council (Regulation 4) and for development to be carried out by other parties on land vested in the Council (Regulation 5).	The relevant Portfolio Holder(s)	Executive

	<b>Authority</b>	<b>Function</b>
1.	To undertake all administrative actions and negotiations in relation to the day to day management of lettings of the Council's estate and property portfolio	Executive

### Economic Development

	<b>Authority</b>	<b>After Consultation with</b>	<b>Function</b>
1.	To agree any grants awarded under the Shop Front Grant Scheme	The relevant Portfolio Holder	Executive

## Head of Legal & Democratic Services

### Data Protection Act 2018

	Authority	Function
1	<p>.</p> <p>To determine a reasonable fee for the administrative costs of complying with a Subject Access Request, FOI and EIR requests in cases where the request is manifestly unfounded or excessive and/or where an individual requests further copies of their data.</p>	Executive

### Estate Management

	Authority	Function
	<p>To agree all leases, licences, contracts and other legal documentation in relation to the administration of the Council's estate and property portfolio <b>except</b> the following matters which are reserved to the Executive:</p> <p>(a) acquisitions or disposal of land or property with a sale or purchase price in excess of £25,000;</p> <p>(b) the grant or renewal of all commercial leases in excess of 2 years that do not reflect market conditions in terms of value or risk;</p> <p>(c) the grant of all leases for the purposes of development or refurbishment schemes including building leases;</p> <p>(d) the grant or renewal of all leases where the Head of Legal &amp; Democratic Services considers referral to the Executive is appropriate.</p>	Executive

### Legal

	Authority	After Consultation with	Function
1.	To make decisions in relation to the inclusion of assets in the List of Assets of Community Value	The relevant Portfolio Holder	Executive
2.	Where the nomination is in respect of council owned land, to make decisions in relation to the inclusion of council assets in the List of Assets of Community Value.	The relevant Portfolio Holders	Executive

## Head of Legal & Democratic Services

### Members Meetings and the Constitution

	Authority	After Consultation with	Function
1	To review, update and amend the Documents Which Support the Constitution	Members of the Governance Working Group	Non-executive
2	To appoint members to the Appointments Sub Committee, Hearing Sub Committee, and Appeals Sub Committee from the membership of the Employment Committee		Non-executive
3	To appoint Independent Panel members, when required, in accordance with the provisions at Part 4, Section J of the Constitution		Non-executive

	Authority	Function
1	To amend the Constitution when the changes result from requirements of new legislation or statutory guidance.	Non-executive
2.	To amend the Constitution to make changes due to administrative error or oversight, in line with the most recent decision of the Council.  Any changes are to be reported to the Governance Working Group.	Non-executive
3.	To appoint the Licensing Committee Licensing Sub Committees.	Non-executive
4.	To appoint members to the Standards Sub Committee from the membership of the Audit and Standards Committee.	Non-Executive
5.	To exercise powers under Section 41 of the Local Government (Miscellaneous Provisions) Act 1982 relating to lost and uncollected property.	Executive

## Head of Planning

### Building Control

	Authority	After Consultation with	Function
1.	To adjust Building Control charges appropriately to ensure income will cover the cost of the chargeable service	The relevant Portfolio Holder.	Executive

	Authority	Function
2.	To exercise the Council's powers in relation to Building Control legislation, including, but without prejudice to the generality of the foregoing, the determination of applications for the approval of plans and specifications, applications for relaxations, the issue and service of all Notices, the making of requirements and the decision to carry out works in default.	Executive
3.	To exercise the powers and duties of the Council, including the recovery of costs, relating to dangerous, dilapidated or defective buildings or structures, hoardings, scaffolding and the demolition of buildings.	Executive

### Development Management

	Authority	After Consultation with	Function
1.	<p>To determine major planning applications where these are re-submitted applications previously refused only for SPA reasons which are now resolved and where:</p> <p>(a) the application is not materially different from the original application;</p> <p>(b) the material considerations affecting the decision have not changed;</p> <p>(c) there is no request from a councillor to call in the application for determination by the Committee as set out in 3(b) below.</p>	The Chairman of the Planning Applications Committee and Ward Councillors	Non-executive

## Head of Planning

2.	To agree variations to Section 106 legal agreements under the Town and Country Planning Act 1990 which relate to planning applications determined by the Planning Applications Committee or Full Council.	The Chairman of the Planning Applications Committee and Ward Councillors	Non-Executive
3.	To make decisions relating to the strategy of the Council's case in planning appeals where the strategy would be contrary to or considered unsupportive of a decision of the Planning Applications Committee	The Chairman and Vice Chairman of the Planning Applications Committee and the relevant Ward Councillors.	Non-Executive

Authority	Function
<p>4. (A) to determine planning applications, applications for advertisement consent, non-material and minor material amendments applications, details to comply with conditions, variation/removal of condition applications, prior notifications/prior approval notices and certificates of lawfulness, or revocation of planning permission;</p> <p>(B) to determine applications for listed building and conservation area consent and to take action in relation to listed buildings and Conservation Areas; and</p> <p>(C) to respond to consultations and notifications, including Habitat Regulation Assessments;</p> <p>(D) to determine the need for an environmental impact assessments;</p> <p>(E) to take direct action/seek injunctions in relation to breaches of planning control, remove unauthorised signage/advertisements and remedying the condition of land;</p> <p>(F) to serve notices (including enforcement notices, breaches of condition notices, temporary stop notices, stop notices planning contravention notices;</p> <p>under the Town and Country Planning Acts and any Regulations made in relation to this legislation or any amendments, <b>except</b> (a) (b) (c) (d) (e) (f) and (g) set out below which are reserved for decision by the Planning Applications Committee</p> <p>(a) planning applications for</p> <p style="padding-left: 20px;">(i) the erection of 10 or more dwelling houses;</p>	

## Head of Planning

	<ul style="list-style-type: none"> <li>(ii) erection of flatted developments, or conversion of existing properties into 10 or more units;</li> <li>(iii) new developments, extensions or change of use for non-residential development of 1000 sq metres or more;</li> </ul> <p>(b) any planning application or advertisement consent, where within 28 days of the publication of the weekly list of planning applications, the Chairman, Vice Chairman of the Planning Applications Committee or a relevant ward councillor makes a request, supported by broad planning reasons, asking the Head of Planning to refer an application to the next appropriate meeting of the Planning Applications Committee for determination.</p> <p>Where the 28 day call-in period has expired, but the Head of Planning is satisfied that the circumstances are exceptional and the application has not been determined, they may, after consultation with the Chairman, arrange for that application to be referred to the Committee;</p> <p>(c) any planning application submitted by a serving Councillor or persons who were councillors within the previous 4 years, an officer who is currently employed by the Council or who has been employed within the previous 4 years, or the spouse or partner of any of the above persons;</p> <p>(d) any planning application where an objection from a statutory consultee remains unresolved and the officer's recommendation is to approve the application;</p> <p>(e) any planning application where the Council is the applicant;</p> <p>(f) any planning application which is required to be referred to the Secretary of State;</p> <p>(g) any confirmation of a Tree Preservation Order where the Council has an interest as a landowner;</p> <p>(h) large-scale planning applications relating to land owned by the Council, or elsewhere if the proposed development is likely to have a very</p>	
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## Head of Planning

	significant impact on the community as set out in Article 4.2(n).	
5.	To take action, make decisions, serve notices and carry out works relating to trees pursuant to the Town and Country Planning Act 1990, the Hedgerow Regulations 1997 and Section 23 of the Local Government (Miscellaneous Provisions) Act 1976, and any Regulations made in relation to this legislation or any amendments, <b>except</b> the confirmation or revocation of a tree preservation order where objections have been received which is reserved for decision by the Planning Applications Committee.	Non-Executive
6.	To agree the terms of, and variations to, Section 106 legal agreements under the Town and Country Planning Act 1990, in connection with the grant of planning permission under delegated powers.	Non-Executive

### Land Drainage

	Authority	Function
2.	<p>To take all actions to alleviate flooding under the Water Management Acts relating to the Council's land drainage functions, except the following which are reserved to the Executive:</p> <p>(i) approval of the annual Drainage Works Programme;</p> <p>(ii) authority to submit funding bids for projects requiring external funding for drainage works on third party land where this would require the Council to part fund from the Drainage Reserve.</p>	Executive

### Licensing

	Authority	Function
1.	<p>Under the Licensing Act 2003</p> <p>(a) to respond to the licensing authority in connection with consultations on applications on behalf of the local planning authority;</p> <p>(b) to apply for a review of a premises licence or a club premises certificate.</p>	Non-executive

### Street Naming and Numbering

## Head of Planning

	<b>Authority</b>	<b>After Consultation with</b>	<b>Function</b>
1.	To determine the names of highways under the Public Health Act 1925.	The appropriate Portfolio Holder and appropriate ward councillors.	Executive

	<b>Authority</b>	<b>Function</b>
1.	To exercise the street numbering function under the Public Health Act 1925.	Executive



# PART 3 – RESPONSIBILITIES FOR FUNCTIONS

## SECTION C

### PROPER OFFICERS OF THE COUNCIL

The following are the Proper Officers of the Council for the purposes stated:

	<u>Purpose of Appointment</u>	<u>Proper Officer(s)</u>
<b><u>Local Government Act 1972</u></b>		
Section 83	To witness, and to receive, declarations of acceptance of office.	Chief Executive Head of Legal & Democratic Services
Section 84	To receive notices of resignations from office	Chief Executive
Section 88	To convene, if necessary, a meeting of the Council when the office of Mayor is vacant.	Chief Executive
Section 89(i)(b)	To receive notice by local government electors of a casual vacancy in the office of Borough or Parish Councillor.	Chief Executive
Section 100B(2)	To take decisions as to 'exempt' information coming before committees	Chief Executive Head of Legal & Democratic Services
Section 100B(7)(c)	To take decisions relating to making available to the press copies of any other documents relating to agenda items.	Chief Executive Head of Legal & Democratic Services
Section 100C(2)	To produce a written summary of proceedings taken by committees in private	Head of Legal & Democratic Services
Section 100D(1)	To compile a list of background papers for a committee report	Chief Executive The Strategic Directors or Head of Service over whose name the committee report appears

	<b><u>Purpose of Appointment</u></b>	<b><u>Proper Officer(s)</u></b>
Section 100(F)	To take decisions in relation to the disclosure of exempt information to Members.	Chief Executive Head of Legal & Democratic Services
Section 115(2)	To receive all money due from officers.	Strategic Director Finance & Customer Services
Section 146	To sign declarations and certificates with regard to securities.	Strategic Director Finance & Customer Services
Section 191	To receive applications with respect to Ordnance Survey	Head of HR, Performance & Communications
Section 210	To exercise certain residual functions relating to charities	Head of Legal & Democratic Services
Section 225	To receive and retain any document deposited with the Council	Head of Legal & Democratic Services
Section 229	To certify, for the purpose of any legal proceedings, photographic copies of documents	Chief Executive Strategic Director or the Head of Service from whose Service the document originates
Section 234	To authenticate notices, orders or other documents on behalf of the Council	Chief Executive Strategic Director or the Head of Service from whose Service the document originates
Section 236	To send copies of confirmed bylaws made by the Council to parish councils and to the County Council	Chief Executive
Section 238	To certify copies of byelaws	Head of Legal & Democratic Services
Section 248	To keep a roll of Freemen	Chief Executive
Schedule 12(4)	To sign, and send to all Members of the Council, the summons to attend meetings of the Council	Chief Executive

	<b><u>Purpose of Appointment</u></b>	<b><u>Proper Officer(s)</u></b>
Schedule 14(Part II (7))	To certify resolutions under this paragraph for the purpose of legal proceedings	Chief Executive Head of Legal & Democratic Services
30(5)	To arrange for the publication in newspaper of notice of the Local Government Ombudsman's report on investigation of a complaint.	Head of Legal & Democratic Services
<b>Local Land Charges Act 1975</b>		
Section 9	To act as local registrar for the registration of local land charges and the issue of official certificates of search.	Head of Planning
<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
Section 41	To certify resolutions under this paragraph for the purpose of legal proceedings.	Chief Executive Head of Legal & Democratic Services
<b>Building Act 1984</b>		
Section 78	To take action in relation to dangerous buildings and structures.	Head of Planning
<b>Local Government Finance Act 1988</b>		
Section 116	To give notice to the auditor in relation to unlawful decisions.	Section 151 Officer
<b>Local Government and Housing Act 1989</b>		
Section 2	To receive on deposit a list of politically restricted posts	Head of Legal & Democratic Services
Section 19	To receive and record details of Members' interests	Monitoring Officer
<b>The Local Government (Committees and Political Groups) Regulations 1990</b>		
Sections 8, 9, 10, 13 and 14	To receive notices relating to political groups, and membership of political groups and in relation to notifying groups about allocations and vacation of seats.	Chief Executive
<b>Party Wall etc. Act 1996</b>		
	To make such appointments as are required under Section 10(8) in relation to the resolution of disputes	Head of Planning

	<b><u>Purpose of Appointment</u></b>	<b><u>Proper Officer(s)</u></b>
	between adjoining owners.	
<b>The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000</b>		
Regulation 4	To publish the verification number of local electors for the purpose of petitions under the Local Government Act 2000.	Chief Executive
<b>The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012</b>		
Regulation 7 (2)	To make decisions relating to the exclusion of access by the public to reports.	Chief Executive
Regulation 7 (7) (c)	To make decisions relating to the supply to a newspaper or other media source, copies of any document supplied to Executive members.	Chief Executive
Regulation 10 (1) & (3)	To be responsible for consulting and giving the appropriate notices where it is impracticable to publish the intention to make a key decision in accordance with Regulation 9.	Chief Executive
Regulation 12 (1)	To be responsible for producing a written statement of all Executive decisions.	Chief Executive
Regulation 13 (1)	To be responsible for producing a written statement of all executive decisions made by individual members.	Chief Executive
Regulation 14 (1)	To be responsible for ensuring that the written statement or any report considered by the decision- maker relating to executive decisions is available for public inspection.	Chief Executive
Regulation 15	To compile a list of background papers and to make a copy of each document available for inspection.	Chief Executive
Regulation 16 (5) & (7)	To make decisions relating to the withholding of documents where exempt information could be disclosed.	Chief Executive
Regulation 20 (2)	To decide whether a document contains or is likely to contain exempt information.	Chief Executive
<b>Local Authorities (Standing Orders)(England) Regulations 2001</b>		
Schedule 1	To make and receive notifications in	Head of HR,

	<b><u>Purpose of Appointment</u></b>	<b><u>Proper Officer(s)</u></b>
(Part 2)	relation to the appointment and dismissal of statutory and non statutory chief officers and deputy chief officers within the meaning of sections 2(7) and 2(8) of the 1989 Act.	Performance & Communication

References in legislation pre-dating the Local Government Act 1972

In legislation predating the 1971/1972 Session of Parliament, other than the Local Government Act 1972, and in Statutory Instruments made prior to 26th October, 1972, references to the designations in the left hand column of the schedule below shall be construed as a reference to the Officers of the Council listed in the right hand column of the schedule below.

<b>Designation</b>	<b>Officer of the Council</b>
The Clerk of the Council	Chief Executive
The Town Clerk	Chief Executive
The Treasurer	Section 151 Officer
The Chief Financial Officer	Section 151 Officer
<b>Designation</b>	<b>Officer of the Council</b>
The Sanitary Inspector	Strategic Director Community & Environment
The Public Health Inspector	Strategic Director Community & Environment
The Medical Officer of Health	The Consultant in Communicable Diseases Control with responsibility for Surrey Heath Borough.

Notes

1. Local Government Act 1972 - Schedule 29(4) – in any act passed before, or during the same session as, this Act, and any instrument made before this Act, any reference to a specified officer of a local authority shall be construed as a reference to the proper officer of a local authority.
2. In the event of any of the officers appointed as Proper Officers being absent or otherwise unable to act, the Chief Executive is authorised to act as a Proper Officer in their place. If the Chief Executive is absent or otherwise unable to act, the a Strategic Director, is authorised to act in there place.
3. The Strategic Director of Finance & Customer Service is designated the Council's Tax Officer, responsible for ensuring the proper

procedures are followed in the administration of the tax affairs of the Council.

### **Statutory Appointments**

The statutory appointments as designated at Article 12 of this Constitution are as follows:

<b><i>Post</i></b>	<b><i>Designation</i></b>	<b><i>Act</i></b>
Chief Executive	Head of Paid Service	Local Government and Housing Act 1989, Section 4
The Head of Legal & Democratic Services	Monitoring Officer	Local Government and Housing Act 1989, Section 5
Strategic Director of Finance & Customer Service	Section 151 Officer	The Local Government Act 1972, Section 151

# **PART 3 - RESPONSIBILITIES FOR FUNCTIONS**

## **SECTION D**

### **ROLES OF DIFFERENT COUNCILLORS**

#### **1. INTRODUCTION**

- 1.1 Councillors are elected by local residents to represent them in making decisions about how the Borough is governed.
- 1.2 The Council appoints councillors annually to the positions of Mayor, Deputy Mayor, and chairmen and vice-chairmen of committees. The Leader is appointed by the Council for a four year term of office. The political groups of the Council will elect their own leaders.
- 1.3 The Leader appoints the Deputy Leader and at least 1, but not more than 8, councillors to form the Executive. The Leader may assign portfolios areas to the members of the Executive. These councillors will normally all be members of the Majority group.
- 1.4 Each year, the Council will also establish committees to oversee its work and councillors will be appointed to serve on those committees as Chairmen, Vice-Chairmen or members. The political balance of the committees reflects the political balance of the Council as a whole and Membership of committees is on the recommendation of the political group leaders.
- 1.5 This section indicates the different roles a councillor may undertake as a member of the Council. The role of all councillors as representatives of their communities is set out in Article 2. The roles of the Mayor and Deputy Mayor are set out in Article 5. The other roles referred to in the Constitution are set out below.

#### **2. LEADER**

- 2.1 The role of the Leader is to
  - a) provide strong political and community leadership;
  - b) identify and promote the Council's core values and strategic objectives, develop and implement the Council's Sustainable Community Strategy and other plans and strategies that underpin this strategy;
  - c) lead the development of local, regional, national and European policy and strategic partnerships to drive forward the Council's strategic objectives and policies;
  - d) maintain effective working relationships of councillors with the Chief Executive, chief officers and all employees of the Council;

- e) chair the Executive and oversee the preparation of business for its consideration;
- f) appoint the Deputy Leader and other members of the Executive.

### **3. DEPUTY LEADER**

- 3.1 The role of the Deputy Leader is to support the Leader in discharging his/her role and to deputise for the Leader in his/her absence or at the specific request of the Leader.

### **4. PORTFOLIO HOLDER**

- 4.1 The role of the Portfolio Holder is

- (a) to be accountable for those services within their portfolio areas, taking the lead publicly in relation to the Executive's activities in those areas both inside and outside the Council;
- (b) to take the lead on discussions at Executive meetings on their portfolio areas;
- (c) to present any Executive recommendations on matters within their portfolio areas to Council;
- (d) to respond to issues raised by the scrutiny committees on their portfolio areas.

### **5. CHAIRMAN OF A COMMITTEE**

- 5.1 The main role of a chairman of a committee is to:

- (a) lead the Council's activities in relation to those functions covered by the Committee in accordance with its the Terms of Reference;
- (b) chair meetings of the committee;
- (c) ensure that the Committee deals with its functions in a fair and proper manner having regard to the Council's policies and statutory provisions relating thereto;
- (d) ensure that mechanisms are put in place to measure regularly the efficiency and quality of the arrangements for dealing with the functions of the committee;
- (e) ensure that the rules relating to declaration of interests are complied with;



- (f) ensure that appropriate member training programmes and seminars are arranged;
- (g) act as spokesman for the committee; and
- (h) oversee the preparation of the business for consideration by the Committee.

## **6. LEADER OF AN OPPOSITION GROUP**

6.1 In addition to their roles and duties as an elected representative, opposition group leaders shall also:

- (a) be the focal point for the opposition group's views on the design, preparation and implementation of the Council's policies, strategies, budgets and service delivery;
- (b) establish and maintain good working relationships between members of the opposition group and all employees of the Council; and
- (c) be responsible for nominating members of the group to serve on committees, panels, sub-committees and outside bodies for consideration by Council.

## **7. WARD COUNCILLOR**

7.1 The role and duties of all Councillors are detailed at Article 2. As representatives of their ward, Councillors are also expected to:

- (a) contribute to good governance and actively encourage community participation and citizen involvement in decision-making;
- (b) deal with constituents' enquiries and representations fairly and without prejudice;
- (c) meet key local "stakeholders";
- (d) listen to needs of local people and take their views into account when considering policy proposals and in decision-making;
- (e) champion the causes which further the interests, quality of life and sustainable development of the community;
- (f) develop a working knowledge of the organisations, services, activities and other factors important to the community's well-being and identity; and

- (g) ensure that local people are informed about services in their area, decisions which affect them, reasons why decisions have been taken, the rights of constituents.

## **PART 3 - RESPONSIBILITIES FOR FUNCTIONS**

### **SECTION E**

#### **TERMS OF REFERENCE OF THE EXECUTIVE, COMMITTEES AND OTHER BODIES**

##### **THE EXECUTIVE**

The Leader is responsible for 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, unless otherwise delegated by him/her. All delegations by the Leader will be set out in Part 3 of this Constitution. Unless otherwise delegated, all executive functions will be agreed collectively by the Executive.

## **PLANNING APPLICATIONS COMMITTEE**

- 1.1. Subject to paragraph 1.2 below, all functions relating to the Town and Country Planning and Development Control as specified in Part A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, including
  - (a) planning applications
  - (b) enforcement action
  - (c) planning agreements
  - (d) lawful use or development
  - (e) advertisement control
  - (f) listed buildings
  - (g) conservation areas
  - (h) minerals and waste disposal
  - (i) hazardous substances
  - (j) development proposals by County Council and Borough
- 1.2. In exceptional circumstances, the Full Council will determine large-scale planning applications relating to land owned by the Council, or elsewhere if the proposed development is likely to have a very significant impact on the community, as determined by the Head of Planning, after consultation with the Leader of the Council and Chairman of the Planning Applications Committee.
- 1.3. All functions relating to trees and hedgerows as specified in Section I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).
- 1.4. The consideration and determination of matters arising from Part 8 of the Anti-Social Behaviour Act 2003 relating to complaints about high hedges.
- 1.5. The determination of applications for Certificates of Appropriate Alternative Development under the Land Compensation Act 1961.
- 1.6. The consideration of and response to any Purchase Notice served on the Council pursuant to Section 137 Town and Country Planning Act 1990.
- 1.7. Recommend to the Leader/Executive, Council, or Strategic Director of Finance & Customer Services as relevant on estimates of income, fees and charges, expenditure and the budget required by the Committee to undertake its functions.
- 1.8. Recommend to Council, implement and keep under review a Scheme of Delegation of Functions to Officers in respect of any of the functions delegated to the Committee.

## LICENSING COMMITTEE

- 1.1 All functions relating to licensing as specified in Part B of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, including:
  - (a) licensing functions under the Licensing Act 2003 (which excludes the statement of licensing policy)
  - (b) licensing functions under the Gambling Act 2005 (which excludes the statement of licensing policy)
  - (c) hackney carriage and private hire
  - (d) street trading and street markets
  - (e) caravan sites
  - (f) food hygiene and safety
  - (g) animal licensing
  - (h) sex establishments
  - (i) residual highways matters
  - (j) licensing functions under the Scrap Metal Dealers Act 2013
- 1.2 All functions relating to health, safety and welfare in connection with work and control of dangerous substances as specified in Part C of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, except in relation to the Council as an employer.
- 1.3 To establish the Licensing Sub-Committee and such sub-committees and working groups as it considers appropriate.
- 1.4 To undertake any other function, not being a licensing function, referred to it by the Licensing Authority.
- 1.5 To recommend to Council, implement and keep under review, the Scheme of Delegation of Functions to officers in respect of any of the functions delegated to the Committee.
- 1.6 Where there is a right for an applicant to be given the opportunity to appear before and be heard by the Committee, to hear and determine such cases as are referred to the Committee.
- 1.7 To have power to make an Order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.
- 1.8 To recommend to the Leader/Executive, Council, or Strategic Director of Finance & Customer Services as relevant on estimates of income, fees and charges, expenditure and the budget required by the Committee to undertake its functions.

## LICENSING SUB-COMMITTEE

### Introduction

- 1.1 This is a sub-committee of the Licensing Committee which is required to be established by statute.
- 1.2 Three members, and one reserve member, being members of the Licensing Committee, will be appointed by the Head of Legal & Democratic Services to serve on the Sub Committee.

### Licensing Act 2003

- 1.3 To determine applications for the following when objections or adverse representations have been submitted:
  - (i) personal licence
  - (ii) premises licence
  - (iii) club premises certificate
  - (iv) provisional statement
  - (v) variation of a premises licence
  - (vi) variation of a club premises certificate
  - (vii) variation of a designated premises supervisor
  - (viii) transfer of a premises licence
  - (ix) an interim authority (to enable someone to act as a designated premises supervisor when this post is unexpectedly vacated)
- 1.4 To determine applications for the review of premises licences or club premises certificates.
- 1.5 To consider any other matters required by the Act or Regulations.

### Gambling Act 2005

- 1.6 To determine applications for the following where representations have been received and not withdrawn:
  - (i) premises licence
  - (ii) variation to a premises licence
  - (iii) provisional statement
  - (iv) review of a premises licence
- 1.7 To determine applications for the transfer of a licence where representations have been received by the Gambling Commission.
- 1.8 To determine applications for club gaming/club machine permits where objections have been made and not withdrawn.
- 1.9 To cancel club gaming/club machine permits.
- 1.10 To determine the issue of a counter notice to a temporary use notice.
- 1.11 To consider any other matters required by the Act or Regulations.

### Local Government (Miscellaneous Provisions) Act 1982 (as amended)

- 1.12 To determine applications for a Sexual Entertainment Venue Licence

### Scrap Metal Dealers Act 2013

- 1.13 To determine appeals relating to a decision to refuse, vary or impose conditions on a licence, or the revocation of a Scrap Metal Dealer licence.

## **THE OVERVIEW AND SCRUTINY COMMITTEES**

### **PERFORMANCE AND FINANCE SCRUTINY COMMITTEE**

1. To scrutinise all of the executive functions of the Council, except those reserved to the External Partnerships Select Committee.
2. To monitor, review and to report to the Leader/ Executive in relation to the performance of the Council's services, including against targets in the Annual Plan and Five Year Strategy.
3. To advise in relation to the Council's existing policies and strategies and assist in the development of policies and strategies.
4. To consider whether decisions taken by the Leader/Executive which were not treated as key decisions, should have been so treated, as set out in the Access to Information Procedure Rules at Part 4, Section 7 of this Constitution.
5. To undertake investigations into such matters relating to the Council's function and powers as:
  - (i) may be referred by the Council or the Leader/Executive;
  - (ii) the Committee may consider appropriate;
  - (iii) have been referred to the Committee pursuant to the "call-in" procedure set out in the Scrutiny Committee Procedure Rules; and
  - (iv) have been referred to the Committee pursuant to the Councillor Call for Action Protocol at Part 4, Section C of this Constitution;

## **EXTERNAL PARTNERSHIPS SELECT COMMITTEE**

1. To review services provided by other agencies and which affect the economic, social and environmental well-being of the Council's area, with particular focus upon:
  - (i) recipients of revenue and leisure grants and their performance against their Service Level Agreements;
  - (ii) registered Social Landlords operating within the borough;
  - (iii) Clinical Commissioning Groups and Health and Wellbeing Boards operating within the borough.
  
2. As the Council's designated crime and disorder committee to
  - (i) review or scrutinise at least annually decisions made or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions, including matters referred to it by a ward councillor;
  - (ii) make reports or recommendations to the Council with respect to the discharge of crime and disorder functions with copies to the appropriate responsible authorities or co-operating bodies;
  - (iii) scrutinise the Police and Crime Panel.
  
3. To undertake investigations into such matters which:
  - (i) may be referred by the Council or the Leader/Executive;
  - (ii) have been referred to the Committee pursuant to the "call-in" procedure set out in the Scrutiny Committee Procedure Rules; and
  - (iii) have been referred to the Committee pursuant to the Councillor Call for Action Protocol at Part 4, Section C of this Constitution.
  
4. To advise in relation to the Council's existing policies and strategies and assist in the development of policies and strategies, with a particular focus upon:
  - (i) grant schemes operated by the Council



## **AUDIT AND STANDARDS COMMITTEE**

### **1. Audit**

- 1.1 To consider the annual report, the annual plan the annual management letter of the External Auditor and any matters arising from the Annual Audit.
- 1.2 To authorise the signing of the Letter of Representation and the Annual Statement of Accounts by the Section 151 Officer and Chairman of the Audit & Standards Committee.
- 1.3 To receive and consider at least annually, details of the status of any recommendations made in any report issued by the External Auditor during the year and confirmation from the Section 151 Officer that all agreed recommendations have been implemented.
- 1.4 To receive and consider the annual Audit Plan, and a report on the status of all recommendations made and of the management actions taken against those recommendations.
- 1.5 To confirm, as necessary, and monitor compliance with the Code of Corporate Governance at least annually and advise the Council or the Leader/Executive, as appropriate, on any matters it wishes to draw to their attention.
- 1.6 To receive an annual report from the Monitoring Officer in respect of authorisations granted during the municipal year pursuant to the Regulation of Investigatory Powers Act 2000.

### **2. Standards**

- 2.1 To promote standards within the Council and to monitor the operation of the Code of Conduct.
- 2.2 To grant dispensations pursuant to Sections 33(2) (b), (c) and (e) of the Localism Act 2011 as follow:
  - (i) That 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
  - (ii) granting the dispensation is in the interests of persons living in the borough, or
  - (iii) it is otherwise appropriate to grant the dispensation.
- 2.3 To hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to Sections 33(2)(a) and (d) of the Localism Act 2011.
- 2.4 To receive an annual report from the Monitoring Officer on Standards issues.

## **STANDARDS SUB COMMITTEE**

- 1.1 To hear and determine complaints of alleged breaches of the Codes of Conduct by borough or parish councillors referred to it by the Monitoring Officer in accordance with the Standards Hearing and Determination Meeting Procedure (Part H of the Documents which support the Constitution).

## **EMPLOYMENT COMMITTEE**

- 1.1 To agree amendments to Terms and Conditions of Employment for Staff and Human Resources policies, as referred by the Joint Staff Consultative Group.
- 1.2 To recommend the annual staff pay award to the Council.
- 1.3 To set the Terms of Reference for an Independent Investigation relating to employment matters where it is not established that they are currently the subject of capability, grievance and/or disciplinary proceedings.
- 1.4 To make recommendations to the Council for any mutually agreed departures for a Statutory Officer.
- 1.5 To agree any mutually agreed departures for a non-Statutory Strategic Director or Head of Service.
- 1.6 To undertake any review of the remuneration for the Head of Paid Service and make any relevant recommendations to the Council.
- 1.7 To agree any incremental progression for the Chief Executive/ Head of Paid Service, taking into account the report and recommendation from the Leader of the Council on the outcome of their end of year appraisal.
- 1.8 To make any decisions on ex-gratia payments to the Chief Executive, Strategic Directors and Heads of Service in accordance with Financial Regulations.
- 1.9 To consider any recommendations for senior management restructures and make recommendations to the Full Council.
- 1.10 To agree the recruitment process for the Chief Executive/ Head of Paid Service.

## **APPOINTMENTS SUB COMMITTEE**

- 1.1 To shortlist and interview candidates for the post of Chief Executive and to make recommendations to Council.
- 1.2 To interview and appoint staff to the posts of Strategic Director and Head of Service.
- 1.3 To interview candidates to act up to the Chief Executive role and make recommendations to Council.
- 1.4 To interview and appoint staff to Acting Up roles in relation to Strategic Director and Head of Service positions.
- 1.5 To recommend the appointment of the Head of Paid Service, the Monitoring Officer and the Section 151 Officer.
- 1.6 To interview applicants for the role of Independent Person and to make recommendations as to the appointment to Council in accordance with Section 28 of the Localism Act 2011.

## **HEARING SUB COMMITTEE**

- 1.1 To hear and determine any grievance or disciplinary matters relating to a Statutory Officer.
- 1.2 Where the disciplinary action proposes the dismissal of a Statutory Officer, to refer the decision to an Independent Panel and the Council.
- 1.3 To receive any grievances or allegations of misconduct concerning non- statutory Strategic Director or Head of Service, as referred by the Head of Paid Service, and determine whether to commission reports from an Independent Investigator, or to take no further action.
- 1.4 To hear any grievance or disciplinary matters relating to a Strategic Director or Head of Service, as referred by the Head of Paid Service.
- 1.5 To decide whether to suspend a Statutory Officer.

## **APPEALS SUB COMMITTEE**

- 1.1 To hear and determine any appeals made by a Statutory Officer in respect of any disciplinary action taken against them by the Council, with the exception of where the Council has made a decision to dismiss that officer.
- 1.2 To hear and determine any appeal regarding disciplinary action taken against any Strategic Director or Head of Service.
- 1.3 To hear and determine any appeal relating to a grievance raised by or against a Statutory Officer or a Strategic Director or Head of Service.
- 1.4 To hear appeals of any decision raised by a statutory officer or a non-statutory Strategic Director or Head of Service relating to a decision made by the Employment Committee outside any grievance or disciplinary process.

## **INDEPENDENT PANEL**

- 1.1 To review any recommendations to dismiss a Statutory Officer and compile a recommendation to the Full Council in respect of this decision.

## **JOINT STAFF CONSULTATIVE GROUP**

- 1.1 To advise the Council, Employment Committee and the Head of Paid Service in relation to major issues of concern to the Council and its employees.
- 1.2 To consider and make recommendations in relation to any relevant matter referred to it by the Leader/Executive, a Panel or Committee of the Council, the Chief Executive, the Head of Legal and Democratic Services, a statutory officer, any of the recognised trade unions or staff representatives.
- 1.3 To negotiate and make recommendations to the Employment Committee in relation to
  - (a) amendments to the Local Terms and Conditions of Service of employees; and
  - (b) procedural agreements, including the disciplinary, dispute and grievance procedures
- 1.4 The Group may only consider collective issues and must not consider any disciplinary, grievance or grading issues relating to individuals.

## **TASK AND FINISH GROUPS**

- 1.1 Any of the above bodies can establish Task and Finish Groups to review in detail any matter within the scope of their Terms of Reference.
- 1.2 The appointing body will be responsible for establishing the Task and Finish Group's Terms of Reference and the timeframe in which the work will be conducted.
- 1.3 The membership of the Task and Finish Group will be set by the relevant body, on the nomination of the Group Leaders.

## **INDEPENDENT REMUNERATION PANEL**

### Introduction

- 1.1 Members of the Independent Remuneration Panel are appointed by the Chief Executive after consultation with the party group leaders and subject to all decisions being reported to Members by email.

### Functions

- 1.2 To produce reports in relation to allowances payable to Members of the Council, making recommendations to the Council as to :-
  - (a) the amount of the basic allowance;
  - (b) the roles for which a special responsibility allowance will be payable and the amount of such allowances;
  - (c) any dependent carer allowances;
  - (d) travelling and subsistence allowances;
  - (e) co-optee allowances;
  - (f) pensions for members.
- 1.3 To produce reports, as required, by Parish Councils within the Borough of Surrey Heath as to:-
  - (a) any basic allowance payable to parish members;
  - (b) when the allowance should be payable;
  - (c) any appropriate travelling and subsistence allowances.

## **GOVERNANCE WORKING GROUP**

- 1.1 To keep under review the Constitution and make any recommendations to the Full Council on revisions to existing constitutional documents, the addition of documents to the Constitution, or the removal of documents from the Constitution, as considered appropriate.
- 1.2 To keep under review the Documents which Support the Constitution, and make any recommendations to the Head of Legal & Democratic Services on revisions to existing Documents which Support the Constitution, the addition of documents to the list of Documents which Support the Constitution, or the removal of documents from the Documents which Support the Constitution, as considered appropriate
- 1.3 To keep under review the Terms of Reference of the Executive, Committees and Other Bodies, including a full review at the beginning of every Council term.
- 1.4 To review the membership levels of the committees prior to the end of an annual term, or as necessary.
- 1.5 To consider any matters relating to the Council's governance, as directed by the Full Council.

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## PART 4

# PROCEDURAL RULES

<u>Section</u>		
A	Council Procedure Rules	Grey
B	Executive Procedure Rules	Lilac
C	Scrutiny Committee Procedure Rules	Cream
D	Committees, Sub Committees and Other Bodies Procedure Rules	Yellow
E	Public Speaking Procedure Rules	Pink
F	Access to Information Procedure Rules	Green
G	Budget and Policy Framework Rules	Blue
H	Financial Regulations	Grey
I	Contract Standing Orders	Lilac
J	Officer Employment Rules	Cream
K	Substitution Procedure Rules	Green
L	Petitions Scheme	Pink

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## PART 4 - PROCEDURAL RULES

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  - 1.1 Annual Meeting of the Council following the ordinary election of councillors
  - 1.2 Annual Meeting in other years
  - 1.3 Establishment of and Appointment to Committees and Working Groups of Council
2. [Ordinary meetings](#)
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## **PART 4 - PROCEDURAL RULES**

### **SECTION A**

#### **COUNCIL PROCEDURE RULES**

##### **1. Annual Meetings - Timing and Business**

##### **1.1 Annual Meeting of the Council following the ordinary election of councillors**

Following the ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors.

This Annual Meeting will:

- (i) elect a person to preside if the Mayor is not present;
- (ii) elect the Mayor;
- (iii) elect the Deputy Mayor;
- (iv) receive the report of the Returning Officer (as appropriate);
- (v) approve the minutes of the last meeting;
- (vi) receive apologies for absence;
- (vii) receive any announcements from the Mayor and/or the Head of the Paid Service;
- (viii) elect the Leader for a four year term of office;
- (ix) appoint at least one scrutiny committee and such other committees and working groups as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);
- (x) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 Table 3 of this Constitution);
- (xi) consider any business set out in the notice convening the meeting, including motions and questions

## 1.2 **Annual Meeting in other years**

In any other years, the annual meeting will take place in March, April or May and will conduct the business set out at 1.1 above with exception of the election of the Leader.

## 1.3 **Establishment of and Appointment to Committees and Working Groups of Council**

At all Annual Meetings, the Council will:

- (i) decide which committees and working groups of Council to establish for the municipal year;
- (ii) decide the size and terms of reference for those committees and working groups of Council;
- (iii) decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- (iv) receive nominations of councillors to serve on each committee and working group of Council;
- (v) appoint to those committees and working groups of Council on the nomination of the Party Group Leaders except where appointment to those bodies has been delegated by the Council or is exercisable only by the Leader;

(Note: whilst committees will ordinarily consist of Members, the Council may appoint committee members who are not members of the Council except where the committee concerned deals with the control or regulation of the Council's finances or of its area);

- (vi) appoint chairmen and vice chairmen of the committees and working groups of Council.

## 2. **Ordinary meetings**

Ordinary Meetings will be held at approximately nine week intervals. Ordinary meetings will:

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive apologies for absence;
- (iv) receive any declarations of interest from members;

- (v) receive any announcements from the Mayor, the Leader, Members of the Executive or the Head of the Paid Service;
- (vi) present retirement and long service awards (if any) to employees of the Council;
- (vii) receive questions or presentations from the public, consistent with the Public Speaking Rules at Part 4 of this Constitution;
- (viii) receive, debate and respond to any petitions presented in accordance with the Petition Scheme at Part 4 of this Constitution;
- (ix) deal with any business from the last Council meeting;
- (x) receive questions from Members and provide answers in accordance with Rule 11;
- (xi) receive notice of any changes to the membership of Committees made by the Chief Executive in accordance with the wishes of the political groups;
- (xii) consider the appointment of a Chairman of a Committee either as a result of the change in membership of Committees or following a vote of no confidence by a Committee in accordance with Scrutiny Committees and Committees, Sub Committees and Other Bodies Procedure Rules at Part 4;
- (xiii) at the appropriate meeting, set the Council Tax for the coming year and at that meeting receive a statement of the Council's financial position by the Leader;
- (xiv) at an appropriate meeting, to receive and debate a State of the Borough address by the Leader;
- (xv) receive and consider all other reports, minutes and recommendations of the Leader, individual Portfolio Holders, the Executive and committees;
- (xvi) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (xvii) consider motions in accordance with Rule 12;
- (xviii) consider any other business specified in the summons to the meeting;
- (xix) receive a report on key decisions taken outside policy and budget by reason of special urgency;
- (xx) permit Members to ask questions and receive answers from the Leader or specific Portfolio Holders in Executive Question Time;

- (xxi) make decisions in relation to those items considered at the meeting which are no longer to be regarded as exempt.

### **3. Extraordinary meetings**

#### **3.1 Calling extraordinary meetings.**

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor;
- (iii) the Monitoring Officer;
- (iv) any five members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition; and
- (v) a Scrutiny Committee, if it so resolves, where it believes that a decision by the Leader, individual Portfolio Holder or the Executive was not wholly within budget or policy.

#### **3.2 Business**

In order to preserve the use of extraordinary meetings for debates concerning one-off, major matters the business which can be conducted at extraordinary meetings will be confined to a single item, with no consideration of previous minutes or reports from committees etc.

### **4. Time and place of meetings**

The time and place of meetings will be determined by the Chief Executive and notified in the summons. Meetings will normally be held in the Council Chamber at Surrey Heath House and will commence at 7.00 pm.

### **5. Notice of and summons to meetings**

- 5.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Local Government Act 1972 and the Access to Information Procedure Rules.
- 5.2 At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by post to every member of the Council or leave it at their usual place of residence, unless a meeting is convened at less notice and this requirement cannot be met.
- 5.3 The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **6. Cancellation of a Meeting**

- 6.1 The Chief Executive may, after consultation with the Mayor, cancel a scheduled meeting if, in his/her opinion, there is insufficient business to justify calling it.
- 6.2 Once a meeting has been called in accordance with Rule 5 above, the meeting will not be cancelled unless it is impractical to hold such a meeting. The Chief Executive, after consultation with the Mayor, may rule that the meeting is cancelled and will advise all councillors and interested parties.

## **7. Chair of meeting**

The person presiding at the meeting may exercise any power or duty of the Mayor.

## **8. Quorum**

- 8.1 The quorum at a meeting of the Council is ten. If, after thirty minutes from the notified start time of the meeting, a quorum is not present, the business will be adjourned to a fixed date and time, or to the next Ordinary Meeting.
- 8.2 If during any meeting of the Council the Mayor, after counting the number of members present, declares that there is not a quorum present, the meeting will be adjourned.
- 8.3 When voting on a motion to remove the Leader of the Council, the quorum required is at least three quarters of the total number of members of the Council.

## **9. Duration of meeting**

- 9.1 At 10.00pm the Mayor must ask the members present whether they wish to adjourn the meeting immediately, conclude the business of the evening by 10.30pm or adjourn to a different date. The meeting must adjourn no later than 10.30pm.
- 9.2 The Council will only suspend this Standing Order on rare occasions when circumstances justify doing so. The motion to suspend this Standing Order must be seconded and then put to the vote without discussion.

## **10. Public Participation and Petitions**

- 10.1 Members of the public and public groups and bodies may, at ordinary meetings, ask questions of members or make presentations in accordance with the Council's Public Speaking Rules set out at Part 4 of the Constitution.
- 10.2 Petitions at Council Meetings will be received, debated and responded to in accordance with the Petitions Scheme (Part 4 of the Constitution).



## **11. Questions by members**

### **11.1 Questions on notice at full Council**

Subject to Rule 11.2, a member of the Council may ask:

- the Mayor;
- the Leader or a member of the Executive; or
- the chairman of any committee or sub-committee

a question on any matter in relation to which the Council has powers or duties or which affects the Borough of Surrey Heath. Where the question meets the requirements of 11.2 below, the Executive Head of Corporate will give a copy of each question to every councillor attending the meeting.

### **11.2 Notice of questions**

A member may only ask a question under Rule 11.1 if either:

- (a) they have given notice in writing of the question to the Chief Executive to arrive no later than 5 pm three clear working days before the meeting; or

(Note: if the Council meeting is on a Wednesday, the question must be received by 5.00 pm on the Thursday preceding the meeting providing there are no Bank Holidays in this period.)

- (b) the question relates to urgent matters, they have the consent of the Mayor to the question being put and the content of the question is given to Chief Executive by 10.00 am on the day of the meeting.

### **11.3 Response**

The question will be put and answered without discussion. An answer given may be given:

- (a) by reference to published material of the Council or that which is readily available to the members; or
- (b) in writing.

The question and the written response will be circulated to Councillors by no later than 2.00pm on the day of the Council meeting.

### **11.4 Supplementary question**

- (a) A member asking a question under Rule 11.1 may ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply and the answer will be given as in 11.3 above.

- (b) If an answer to the supplementary question is to be made in writing, the answer must be circulated to all members of the Council by e-mail.

## **11.5 On Minutes of the decisions made by the Leader, Portfolio Holders, Executive or Committees**

A member of the Council may ask the Leader or the chairman of a committee any question without notice upon an item of the minutes of the decisions of the Leader, individual Portfolio Holders, the Executive or a committee when that item is being received or under consideration by the Council.

## **11A. Leader's Question Time**

11A.1 The purpose of Leader's Question Time is to allow Members to ask questions of the Leader which relate to his/her area of responsibility.

11A.2 The Leader, will respond to questions from Members each meeting.

11A.3 The Leader may respond orally, by reference to published material or that which is readily available to the members, or in writing. The Questions will be put and answered without debate.

11A.4 The total time allocated to Leader's Question Time will be no more than 20 minutes.

## **12. Motions on Notice**

### **12.1 Notice**

Except for motions which can be moved without notice under Rule 13, written notice of every motion, must be received by the Chief Executive at least seven clear days before the meeting, and be signed by the councillor(s) giving the notice.

(Note - seven clear days does not included the day of the meeting i.e. If the Council meeting is on a Wednesday the motion must be received by 5 p.m. on the Friday two weeks before the meeting providing there are no Bank Holidays in this period.)

### **12.2 Motion set out in agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

### **12.3 Scope**

Motions must be about matters for which the Council has a responsibility or which affect the Borough of Surrey Heath.

#### **12.4 Improper, Out of Order or Not Relevant Motions**

If the Chief Executive receives a notice of motion and entertains any doubt as to whether the motion is improper, out of order or not relevant to a matter for which the Council has a responsibility or which affects the Borough of Surrey Heath he or she must consult the Mayor before inserting or rejecting it. A motion rejected in this manner must not be inserted in the agenda except upon the written request of 10 members of the Council.

#### **12.5 Motions not Moved at the Meeting**

The Council will treat as withdrawn any motion not moved, either by the member who gave notice or by some other councillor on their behalf, at the meeting at which it appears on the summons, unless its postponement is agreed. A motion must be seconded before any debate can take place.

#### **12.6 Reference of or Dealing with Motions**

Any motion the subject matter of which comes within the province of the Leader, individual Portfolio Holder, the Executive or any committee(s) may be referred without discussion to the Leader, Portfolio Holder or body concerned, or any other body, for consideration and report or be dealt with at the meeting at which it is moved if the Mayor considers it would be advantageous to do so.

#### **12.7 Notice of Reference of Motion**

The councillor who has moved the motion must be notified by the Executive Head of Corporate of the meetings of the body to which it has been referred, and has the right to attend the meeting(s) and to explain the motion.

#### **12.8 Limit on Number of Motions**

No councillor must have more than two notices of motion on the same agenda.

#### **12.9 Motion to Replace Leader**

- (a) A notice of motion to replace the Leader of the Council must state why the signatories consider the Leader should be removed and be signed by 10 members of the Council and received by the Chief Executive at least five clear days before the meeting.
- (b) Subject to the provisions relating to the quorum required when voting on such a motion (see Rule 8.2 above), 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 and, if carried by at least two-thirds of those councillors present, the Leader shall be removed from office.

- (c) If the Council passes a resolution to remove the Leader from office, a new Leader will be elected at the meeting at which the Leader is removed from office.

**13. Motions without notice**

The following motions may be moved without notice:

- (a) to appoint a chairman for that meeting or the remainder of the meeting;
- (b) in relation to the accuracy of the minutes of the Council;
- (c) to change the order of business in the agenda;
- (d) to receive the minutes and adopt recommendations of the Leader, individual Portfolio Holders, the Executive, committees or officers;
- (e) to refer, or refer back, a matter to an appropriate body or individual, providing it does not seek to amend or rescind a decision taken using delegated authority;
- (f) in relation to the consideration of an item on the agenda, but the motion must be relevant to that item, not introduce any new subject matter and not seek to amend or rescind a decision taken using delegated authority;
- (g) to appoint a body or a person to a body, arising from an item on the summons for the meeting;
- (h) to withdraw a motion;
- (i) to extend the time limit for speeches
- (j) to amend a motion;
- (k) to proceed to the next business;
- (l) that the question be now put;
- (m) to adjourn a debate;
- (n) to adjourn a meeting;
- (o) to suspend one or more Council Procedure Rule, except for Rules 17.5 and 18.2;

(Note: where the Council wishes to allow freer debate and remove restrictions relating to officers and consultants speaking, councillors speaking more than once, the time limit on speaking and the

requirement to stand, Rules 14.6, 14.7 and 21.1 need to be suspended.)

- (p) to exclude the public and press under Section 100A(2) and Section 100A(4) of the Local Government Act 1972 and in accordance with the Access to Information Rules;
- (q) to not hear further a member named under Rule 21.5 or to exclude them from the meeting under Rule 21.6;
- (r) to give the consent of the Council where its consent is required by this Constitution; and
- (s) to carry out a statutory duty or power of the Council not delegated by law or the Constitution to the Leader which, in the opinion of the Mayor, is of an urgent nature.

## **14. Rules of debate**

### **14.1 No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it, until the motion has been seconded.

### **14.2 Right to require motion in writing**

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him/her before it is discussed.

### **14.3 Secunder's speech**

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

### **14.4 Content of Speech**

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

### **14.5 Length of speech**

Except with the consent of the Mayor:

- (a) in respect of motions moved with notice (Rule 12 above), the mover of the motion may not speak for more than 8 minutes and the seconder 5 minutes
- (b) in respect of motions moved without notice (Rule 13 above), the mover and the seconder of the motion may not speak for more than 3 minutes each.

#### 14.6 **When a member may speak again**

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply (Rule 14.10);
- (e) to raise a point of order (Rule 14.13);
- (f) by way of personal explanation (Rule 14.14).

(For this purpose, each separate minute of the decisions of the Leader, individual Portfolio Holder, the Executive, committee, sub-committee or joint committee, or group of minutes being taken together will be regarded as a separate motion.)

#### 14.7 **Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual 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.

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

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) Notice of intention to move a further amendment, and the nature thereof, may, at the discretion of the Mayor be given before a vote is taken on the amendment before the meeting.

- (d) If an amendment is not carried, other amendments to the original motion may be moved.
- (e) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (f) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### **14.8 Alteration of motion**

- (a) A member may, with the consent of the Council, alter a motion of which he/she has given notice. The Council's consent will be signified without discussion.
- (b) A member may, with the consent of both the Council and the seconder, alter a motion which he/she has moved without notice. The Council's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

#### **14.9 Withdrawal of motion**

A member may withdraw a motion which he/she has moved with the consent of both the Council and the seconder. The Council's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### **14.10 Right of reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) 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.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

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

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) by the mover, to withdraw a motion;
- (b) to amend a motion;

- (c) to postpone consideration of a motion;
- (d) to proceed to the next business;
- (e) that the question be now put;
- (f) to adjourn a debate;
- (g) to adjourn a meeting;
- (h) to suspend one or more Council Procedure Rules;
- (i) to refer the subject of the debate to the Executive, a committee or to an officer for report;
- (j) to exclude the public and press under Section 100A(4) of the Local Government Act 1972 accordance with the Access to Information Rules; and
- (k) to not hear further a member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4.

#### 14.12 Closure motions

- (a) A member may move, without comment, the following procedural motions at the end of a speech of another member:
  - (a) to proceed to the next business;
  - (b) to take an immediate vote;
  - (c) to adjourn a debate; or
  - (d) to adjourn a meeting.
- (b) On the seconding of any of the above procedural motions, the Mayor will proceed as follows:

##### Next Business

- (i) If the Mayor considers the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put to the vote the motion to move to the next business.

##### An Immediate Vote

- (ii) If the Mayor considers the item has been sufficiently discussed, he/she will put to the vote the motion to move to an immediate vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her original motion to the vote.



### Adjourn a Debate

- (iii) If the Mayor considers the item has not been sufficiently discussed and cannot reasonably be discussed on that occasion, he/she will put to the vote the motion to adjourn the debate without giving the mover of the original motion the right of reply.

### Adjourn a Meeting

- (iv) If the Mayor considers the item has not been sufficiently discussed and cannot reasonably be discussed on that occasion, he/she will put to the vote the motion to adjourn the meeting without giving the mover of the original motion the right of reply.

- (c) Relevance to the Question and No Amendments

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

- (d) Adjourned Debate

On resuming an adjourned debate, the Member who moved the adjournment is entitled to speak first. Thereafter, the normal rules of debate will apply.

- (e) Second Motion to Adjourn Meeting

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

## **14.13 Point of order**

A member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The member must indicate the Rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

## **14.14 Personal explanation**

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present

debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

## **15. State of the Borough of Surrey Heath debate**

### **15.1 Calling of debate**

The Leader may call a State of the Borough of Surrey Heath debate annually on a date to be agreed with the Mayor.

### **15.2 Form of debate**

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity.

### **15.3 Chairing of debate**

The debate will be chaired by the Mayor.

### **15.4 Results of debate**

The results of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (ii) considered by the Leader in proposing the budget and policy framework to the Council for the coming year.

## **16. Previous decisions and motions**

### **16.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 10 members.

### **16.2 Motion similar to one previously rejected**

A motion or amendment, which in the opinion of the Chief Executive, after consultation with the Mayor, is in similar terms to one which has been rejected at a meeting of Council in the past six months, cannot be moved unless the notice of motion or amendment is signed by at least 10 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **17. Voting**

### **17.1 Majority**

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

### **17.2 Mayor's casting vote**

- (a) If there are equal numbers of votes for and against, the Mayor will have a second or casting vote.
- (b) If the Mayor fails to vote when the main vote is taken, an equality of a vote cannot be achieved by the Mayor casting an original vote and following that action with a casting vote. The Mayor's casting vote may be used whether or not the Mayor has already voted.
- (c) In the event of a tied vote, the proposer of the matter under debate shall have the opportunity of making a further speech of no more than 3 minutes. A further vote will then immediately be taken. If deadlock has not been broken, the Mayor must cast a vote in favour of the status quo. The status quo will usually be interpreted as the motion falling.

### **17.3 Show of hands**

Except where a vote is being taken at a budget decision meeting or unless a roll call vote is demanded under Rule 17.4, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting."

### **17.3A Budget Decision Meeting**

Immediately after any vote on the budget is taken at the budget decision meeting, there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

### **17.4 Roll Call Vote**

If, before the Mayor begins to take a vote, three members present at the meeting demand it, the names for and against the motion or amendment or abstentions from voting will be taken down in writing and entered into the minutes.

Each member present will be called by name and asked to indicate whether they are voting in favour of, or against the motion or amendment or abstaining from voting.

### **17.5 Right to require individual vote to be recorded**

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

#### **17.6 Voting on appointments**

If there are more than two people nominated for any position to be filled by the Council and there is no clear majority of the votes cast in favour of one person, then the candidate who received the fewest votes must be eliminated from the voting and a fresh vote taken. This process will, if necessary, continue until a majority of votes has been cast in favour of one person.

### **18. Minutes**

#### **18.1 Signing the minutes**

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

#### **18.2 No requirement to sign minutes of previous meeting at extraordinary meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

#### **18.3 Form of minutes**

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

### **19. Record of attendance**

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

### **20. Exclusion of public**

Members of the public and press may only be excluded either in accordance with Section 100A(4) of the Local Government Act 1972 and the Access to Information Rules in Part 4 of this Constitution or Rule 22 (Disturbance by Public).

## **21. Members' conduct**

### **21.1 Mayor standing**

When the Mayor stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

### **21.2 Standing to speak**

When a member speaks they must stand and address the meeting through the Mayor.

### **21.3 Mayor to decide order of speaking**

If two or more councillors indicate their wish to speak, the Mayor will decide the order of speaking.

### **21.4 Only one councillor to stand**

While a councillor is speaking, all other councillors must remain seated and silent unless rising to a point of order or in personal explanation.

### **21.5 Member not to be heard further**

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

### **21.6 Member to leave the meeting**

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

### **21.7 General disturbance**

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

## **22. Disturbance by public**

### **22.1 Removal of member of the public**

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

## **22.2 Clearance of part of 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.

## **23. Suspension and amendment of council procedure rules**

### **23.1 Suspension**

All of these Council Procedure Rules except Rule 17.5 and 18.2 may be suspended by motion on notice or without notice. Suspension can only be for the duration of the meeting.

### **23.2 Amendment**

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

## **24. Interpretation of Council Procedure Rules**

The ruling of the Mayor as to the application of any of the Council Procedure Rules, or as to any proceedings of the Council, must not be challenged at that meeting of the Council.

## **25. Council Procedure Rules to be given to Members**

25.1 A printed copy of these Procedure Rules will be provided to each Member.

25.2 Any amendment to these Procedure Rules will be notified in writing to every Member within 10 working days from the date of the meeting at which the amendment is approved by the Council.

## **PART 4 - PROCEDURAL RULES**

### **SECTION B**

#### **EXECUTIVE PROCEDURE RULES**

##### **1. Members of the Executive**

- 1.1 The Executive will consist of the Leader and Deputy Leader together with at least 1, but not more than 8, councillors appointed to the Executive by the Leader. The Leader will report the appointments, and any changes to these appointments, to the Council.

##### **2. Executive Decisions**

- 2.1 The arrangements for the discharge of Executive functions will be set out by the Leader. The Leader may provide for Executive functions to be discharged by:

- (i) the Leader him/herself;
- (ii) the Executive as a whole;
- (iii) a Committee of the Executive;
- (iv) an individual Member of the Executive;
- (vi) an officer;
- (vii) an Area Committee;
- (viii) joint arrangements; or
- (ix) another local authority.

- 2.2 The Leader will report the arrangements, and any changes to the arrangements, to the Council

##### **3. Working Groups**

- 3.1 The Leader/Executive may appoint such working groups as is considered appropriate.

##### **4. The Leader's Scheme of Delegation of Executive Functions**

- 4.1 The Leader's Scheme of Delegation of Executive Functions will be determined and/or amended by the Leader. The Leader will report the Scheme as determined, and any amendments to it, to the Council.

##### **5. Executive Meetings**

- 5.1 Meetings of the Executive will be set by the Leader and included in the calendar of meetings. The Leader may call meetings in addition to those in the agreed calendar of meetings. The Executive will normally meet at Surrey Heath House unless another location is agreed by the Leader with the Chief Executive.

## **6. Public or Private Meetings**

- 6.1 All meetings of the Executive at which decisions are taken, whether or not they are key decisions within the meaning of the Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012 will take place in public, except where the Executive is considering exempt business.

## **7. Quorum**

- 7.1 The Quorum for a meeting of the Executive is one third of the membership, rounded up or 3 whichever is the larger.

## **8. How Decisions are to be taken by The Executive**

- 8.1 Executive decisions which are to be taken by 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 this Constitution.
- 8.2 The Executive will deal with proposals relating to the policy framework or budget in accordance with the Budget and Policy Framework Rules in Part 4.

## **9. Date When Executive Decisions Take Effect**

- 9.1 When decisions have been taken by the Executive, the Monitoring Officer will issue to all members of the Council a summary of the decisions as soon as reasonably practical, normally by 5 p.m. on the following working day.
- 9.2 Decisions taken by the Executive can be called-in for scrutiny by a Scrutiny Committee. The protocol for call-ins is set out in the Scrutiny Committee Procedure Rules in Part 4. Requests for call-ins must be submitted by 5pm on the fifth working day following the issue of the summary of decisions. Decisions of the Executive will take effect or be actioned six working days after the issue of the summary unless the call-in process has been triggered.
- 9.3 Where a decision of the Executive is considered by the Chief Executive to be urgent, it can take effect immediately the summary of the decision is published. If the decision is subsequently called – in, the Scrutiny Committee may still review the decision although the outcome will be not affected.



## **10. Decisions by the Leader and Individual Portfolio Holders**

- 10.1 Where the Leader or an individual Member of the Executive receives a report which he/she intends to take into account in making an Executive decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.
- 10.2 The officer who prepared the report will, at the same time as giving the report to the Leader or an individual Member of the Executive, give a copy of it to all Members of the Council and make the report publicly available, unless the report is exempt.
- 10.3 As soon as reasonably practicable after an Executive decision has been taken by the Leader or an individual member of the Executive or a key decision taken by an officer, the Chief Executive will prepare a record of the decision, a statement of the reasons for it, any advice sought or received from officers, and the options considered.
- 10.4 The Access to Information Procedure Rules provisions apply to the making of decisions by the Leader or individual members of the Executive, and decisions will be taken at a meeting convened in accordance with those Rules.

## **11. Conduct of Executive Meetings**

- 11.1 The Leader will chair meetings of the Executive at which he/she is present. In the Leader's absence, the Deputy Leader will preside. If both are absent, the Executive will appoint a person from those present to preside at the meeting.

## **12. Who May Attend**

- 12.1 Members of the public may attend any meeting where decisions are being taken by the Leader, individual Portfolio Holder or the Executive except where exempt or confidential information may be considered.
- 12.2 Any member of the Council may attend a meeting where decisions are being taken by the Leader, individual Portfolio Holder or the Executive which is open to the public but shall sit separately from the decision makers so that it is clear to any members of the public who are decision makers. Attendance by any member at these meetings will be recorded in the minutes of the meeting.
- 12.3 A councillor who attends a meeting where decisions are being taken by the Leader, individual Portfolio Holder or the Executive may, when invited to do so by the Leader (or person presiding, as appropriate), speak at the meeting on an item the decision maker is considering before the decision is made.

## **13. Business at Executive Meetings**

- 13.1 At each meeting of the Executive held in public the following business will usually be conducted:

- (a) apologies for absence;
- (b) consideration of the minutes of the last meeting;
- (c) declarations of interest, if any;
- (d) receive, debate and respond to any petitions presented in accordance with the Petition Scheme at Part 4 of this Constitution;
- (e) receive and respond to any questions received from Members under Rule 16 below:
- (f) matters referred to the Executive (by either a Scrutiny Committee or Council) for reconsideration by the Executive in accordance with the provisions contained in the Scrutiny Committee Procedure Rules or the Budget and Policy Framework Rules;
- (g) consideration of reports and recommendations from Scrutiny Committees;
- (h) matters set out in the agenda for the meeting, which shall indicate which are Key Decisions;
- (i) recommendations of the Executive's Working Groups;
- (j) urgent Items, subject to the Access to Information Procedure Rules at Part 4.

#### **14. Putting Items on the Executive Agenda**

- 14.1 The Leader may put on the agenda of any Executive meeting any matter which he/she wishes, whether or not authority has been delegated to the Executive, a committee of it or any member or officer in respect of that matter. The Chief Executive will comply with the Leader's request in this respect.
- 14.2 Subject to the agreement of the Leader, any member of the Executive may ask the Chief Executive to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration. The proper officer will comply with any such request.
- 14.3 Any member of the Council may ask the Leader to put an item on the agenda of an Executive meeting for consideration and, if the Leader agrees, the item will be considered at the next available meeting. The notice of the meeting will give the name of the member who asked for the item to be considered.

## **15. Application of Council Procedural Rules**

The following Council Procedural Rules apply to meetings of the Executive with any references to 'the Council and Mayor' being substituted by 'the Executive and Leader or person presiding at the meeting'.

- (b) Cancellation of a Meeting - Rule 6
- (c) Duration of Meetings - Rule 9
- (e) Voting - Rule 17
- (f) Minutes - Rule 18
- (g) Record of Attendance - Rule 19
- (h) Members' conduct - Rules 21.5, 21.6 and 21.7
- (i) Disturbance by the Public - Rule 22

## **16. Questions by Members**

- 16.1 A Member of the Council may ask the Leader, or a member of the Executive, a question on any matter which relates to an Executive function.
- 16.2 The question will be put and answered without debate. An answer given may be given orally; by reference to published material of the Council or that which is readily available to the members; or in writing.
- 16.3 The period for questions by Members will not last more than 15 minutes.

## **17. Conflicts of Interest**

- 17.1 Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of the Council's Constitution.
- 18.2 If every member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of the Council's Constitution.
- 18.3 If the exercise of an executive function has been delegated to a committee of the Executive, a Portfolio Holder or an officer, and a conflict of interest arises, then the function will be exercised in the first instance by the Executive and otherwise as set out in the Council's Code of Conduct for Members in Part 5.

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## **PART 4 - PROCEDURAL RULES**

### **SECTION C**

#### **SCRUTINY COMMITTEE PROCEDURE RULES**

##### **1. NUMBER AND SIZE OF COMMITTEES**

- 1.1 The Council will appoint overview and scrutiny committees (known scrutiny committees) as set out in Article 6 and will appoint Members to each. The committees may appoint such sub-committees and commissions/working groups as they consider appropriate.

##### **2. WHO MAY SIT ON SCRUTINY COMMITTEES**

- 2.1 Only members, who are not members of the Executive, may be appointed to one or more scrutiny committee by the Council in accordance with the political proportionality requirements of the Local Government and Housing Act 1989. However, no member may scrutinise a decision which she/he has been directly involved in.

##### **3. MEETINGS**

- 3.1 There shall be up to 6 ordinary meetings of each scrutiny committee in each municipal year. In addition, extraordinary meetings may be called from time to time, when appropriate. A scrutiny committee meeting may be called by the Chairman of the relevant committee, by any five councillors or by the Chief Executive, as Proper Officer, if he/she considers it necessary or appropriate.
- 3.2 Any councillor may attend meetings of any scrutiny committee of which he/she is not a member.
- 3.3 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.

##### **4. QUORUM**

- 4.1 The quorum for scrutiny committee meetings is one third of the membership, rounded up.

##### **5. CHAIRING SCRUTINY COMMITTEES**

- 5.1 The Council will appoint chairmen and vice-chairmen to committees at its annual meeting. In the event that neither the Chairman nor Vice-Chairman can attend a scrutiny committee meeting or are excluded due to a declaration of interest, the committee will elect a chairman for that meeting or item as appropriate.

- 5.2 At any meeting of a scrutiny committee, a councillor may propose that “the meeting has no confidence in the chairman”. The question will, after debate, be put and, if carried by a majority of at least two thirds of the councillors present, the chairman will stand down and the remainder of the meeting will 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.
- 5.3 Following a successful vote of no confidence in the chairman, he or she will not officiate at any subsequent meeting of the committee prior to the next meeting of the Council. At that meeting, the Council will consider whether to confirm the vote of no confidence. If by a simple majority the Council decides to confirm the vote, the office of chairman of the committee will be declared vacant and a new chairman will be elected by the Council.

## **6. WORK PROGRAMME**

- 6.1 The scrutiny committees will be responsible setting their own work programmes, subject to any directions by the Council and/or inclusion of matters referred by the Leader/Executive/Portfolio Holders. This will normally be drawn up for consideration at the last meeting of the previous municipal year.
- 6.2 Any work programme agreed may be amended from time to time, as necessary.

## **7. AGENDA ITEMS**

- 7.1 Any member of a scrutiny committee or sub-committee shall be entitled to give notice to the Chairman and Chief Executive (Proper Officer) that he/she wishes an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee. The Committee will consider at the next appropriate meeting and take a decision as to whether further resources should be allocated to it.
- 7.2 As soon as their work programme permits, the committees will respond to requests from the Council and the Leader, Portfolio Holder or the Executive to review particular areas of Council activity and will consider motions referred to them by Council.

## **8. ORDER OF BUSINESS**

- 8.1 The normal order of business at scrutiny committee meetings will be as follows:
- (a) Apologies for absence;
  - (b) Minutes of the previous meeting;
  - (c) Declarations of interest;

- (d) Receive, debate and respond to any petitions presented in accordance with the Petition Scheme at Part 4 of this Constitution;
- (e) Consideration of any matter referred to the committee for consideration in relation to the call-in of a decision;
- (f) Responses of the Leader, Portfolio Holder or the Executive to any reports and recommendations from the committee;
- (g) The business otherwise set out on the agenda for the meeting; and
- (h) Possible issues for future meetings.

## **9. POLICY REVIEW AND DEVELOPMENT**

- 9.1 Scrutiny Committees have the right to be involved in and where appropriate consulted on policy development, policy review, budget setting, service scrutiny, best value reviews and reactive reviews.
- 9.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, scrutiny committees may make proposals to the Leader, Portfolio Holder or the Executive for developments insofar as they relate to matters within their terms of reference.
- 9.3 Scrutiny committees may hold inquiries and investigate the available options for developing policies and may appoint advisers and assessors to assist them in this process. They may commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may also ask witnesses to attend to address them on any matters under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so, within provided budget limitations and existing resources. The Scrutiny Committee Lead Officers will advise on resource/budgetary implications.

## **10. CONDUCT OF REVIEWS**

- 10.1 Before starting a review or enquiry, a scrutiny committee will:
  - (a) Define the issue/area it wishes to look at and the committee's purpose in undertaking the review;
  - (b) Indicate the type of background information and any performance or other data the committee requires;
  - (c) Indicate the individuals the committee would like to interview as part of their review (e.g. the Leader, members of the Executive, officers, representatives from other organisations, local residents and outside experts, etc)
  - (d) Set a realistic timescale, including meeting dates if there are to be additional meetings to those in the calendar of meetings; and

- (e) Decide whether the review is to be undertaken by the committee itself or a working group reporting to that committee.
- 10.2 When a scrutiny committee plans a review or investigation, it will ensure that the matter is not currently being investigated by the Leader, Portfolio Holder, the Executive or officer working groups and will ensure that adequate resources are available to achieve the work required within the timescales set.
- 10.3 The terms of reference for any review to be undertaken by a scrutiny committee will be agreed by the Chairman of the committee with the committee support officers and sent to all members of the committee for consideration. The chairman and committee will then manage the review with the assistance of the committee support officers.
- 10.4 Where a scrutiny committee conducts a review or scrutinises a matter which also falls (whether in whole or part) within the remit of another scrutiny committee, the Committee Chairman will agree which Committee will consider the matter.

## **11. REPORTS FROM SCRUTINY COMMITTEES**

- 11.1 Once it has formed recommendations on proposals for development, a scrutiny committee will prepare a formal report and submit it to the Leader, Portfolio Holder or the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council (if the recommendation would require a departure from or a change to the agreed budget and policy framework) as appropriate, having regard to the Council's available resources.
- 11.2 When the Council meets to consider any referral from a scrutiny committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Leader, Portfolio Holder or the Executive to the proposals.

## **12. SCRUTINY OF CRIME AND DISORDER MATTERS**

- 12.1 The External Partnerships Select Committee has been designated the Council's crime and disorder committee. When convened to consider such matters the provisions of paragraphs 12.2 to 12.6 below apply.
- 12.2 The Committee shall meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions as the committee considers appropriate but no less than once in every twelve month period.
- 12.3 Where the Committee makes a request in writing for information from the responsible authorities or the co-operating persons or bodies the information must be provided no later than the date indicated in the request. If some or all of the information cannot reasonably be provided on such date then that



information must be provided as soon as is reasonably possible.

- 12.4 The information provided should be depersonalised unless the identification of an individual is necessary or appropriate in order to enable the Committee to exercise its powers properly. This information should not include anything which is likely to prejudice legal proceedings or current or future operations of the responsible authorities, whether acting together or individually, or of the co-operating persons or bodies.
- 12.5 The Committee may require the attendance before it of an officer or employee of a responsible authority or of a co-operating person or body in order to participate in the meeting and to answer questions. Reasonable notice must be given of the intended date of attendance.
- 12.6 A report or recommendations from the Committee to a responsible authority or to a co-operating person or body requires a written response from that body within a period of 28 days from the date of the report or recommendations, or, if this is not reasonably possible, as soon as practicable thereafter.

### **13. RIGHTS OF SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

- 13.1 To enable scrutiny committees to undertake their duties, each Committee will have timely access to;
  - (a) all reports, supporting papers and background material, including exempt information, considered by the Leader, Portfolio Holder or the Executive as soon as practicable after a decision has been made, including any information about options rejected;
  - (b) such information and reports as the scrutiny committee may request the Chief Executive or Executive Head of Service or Head of Service to provide or prepare subject to the right of the Monitoring Officer to refer the need for such work to the Council for agreement; and
  - (c) Members of the Scrutiny Committees shall respect the confidentiality of confidential and exempt information and will only disclose it to those with access rights to that information.

### **14. MEMBERS AND OFFICERS - ATTENDANCE AT SCRUTINY COMMITTEE MEETINGS GIVING ACCOUNT**

- 14.1 A scrutiny committee may scrutinise and review decisions made or actions taken, within its remit, in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may invite the Leader, members of the Executive or other Committee Chairman and require the Chief Executive and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - (a) any particular decision or series of decisions;

- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance.

14.2 Where any councillor is invited or officer is required to attend a scrutiny committee under this provision, the chairman of that scrutiny committee will inform the Chief Executive (Proper Officer). The Chief Executive shall inform the member(s) or officers in writing, giving at least 5 working days notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for the preparation of the documentation.

14.3 Where, in exceptional circumstances, the councillor or officer is unable to attend on the required date, then the scrutiny committee shall arrange an alternative date for attendance, in consultation with the councillor or officer, within a reasonable period.

## **15. CALL-IN PROTOCOL AND PROCEDURE**

15.1 A Call-in protocol is attached at Annex A which details the legal position, what can be called in and by whom and the procedures to be followed both prior, at and subsequent to the scrutiny committee meeting.

## **16. COUNCILLOR CALL FOR ACTION PROTOCOL**

16.1 Scrutiny Committees will consider any matter referred to them in accordance with the Councillor Call for Action provisions of Section 119 of the Local Government and Public Involvement in Health Act 2007, Sections 19 and 20 of the Police and Justice Act 2006 and the Protocol attached as Annex C.

## **17. CONFLICTS OF INTEREST**

17.1 Where the Chairman has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of the Council's Constitution.

17.2 If every member of the Committee has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of the Council's Constitution.

## CALL - IN PROTOCOL

### WHAT CAN BE CALLED IN?

1. The Council is responsible for the adoption of its budget and policy framework. Once a budget or a policy framework is in place, it will be the responsibility of the Leader to implement it.
2. All decisions of the Leader, individual Portfolio Holders or the Executive and all key decisions taken by officers under delegated authority can be called-in. All such decisions will be published in accordance with the Executive Procedure Rules in Part 4. Decisions of the Council or regulatory committees cannot be called in.
3. A key decision is explained in the Constitution at Article 13 - Decision Making, but in simple terms, it will be a decisions which will carry a cost or saving to the Council in excess of £100,000, or will impact on residents of 2 or more wards, or is made in the course of developing proposals to the Council to amend the policy framework.

### SUBMITTING A CALL-IN

4. A Schedule of Key Decisions, including a timetable for the decisions to be considered by the Leader, Portfolio Holder, the Executive or Council, will be published.
5. A summary of decisions made by the Leader, individual Portfolio Holder or the Executive will be issued by the Monitoring Officer, normally by 5.00 p.m. the following working day. This summary will indicate the decisions taken and whether or not the decisions were deemed to be urgent (see paragraph 15).
6. A request for scrutiny of a decision made by the Leader, individual Portfolio Holder or the Executive by a scrutiny committee must be made in writing, by fax or by e-mail.
7. The request must identify the decision and state the reason(s) for requesting the review and must be submitted by noon on the fifth working day following issue of the Summary.
8. A call-in will be triggered if two or more councillors ask for the same decision to be scrutinised formally.
9. Where only one Councillor asks for a decision to be scrutinised, whilst this does not constitute a valid call-in under this Constitution, the matter will be placed on the agenda for the next programmed meeting of the appropriate Committee for discussion only. The implementation of the decision will not be affected.

## **ACCEPTANCE OF A CALL-IN**

10. On receipt of a call-in request, the Monitoring Officer will decide, after consultation with the appropriate scrutiny committee Chairman, whether or not the call-in is valid. Such a request may be refused if it is:
  - a decision which has been the subject of a call-in submitted within the previous six months
  - unsubstantiated - not being accompanied by a substantial reason for consideration;
  - vexatious, frivolous or defamatory;
  - more appropriately dealt with by the Council's complaints procedures; or
  - seeking only to delay the decision, rather than to examine its merits.
11. In the event that a call-in is rejected, the Monitoring Officer will submit a report to the appropriate scrutiny committee providing the reasons for the rejection.

## **URGENCY**

12. Where a decision made by the Leader, individual Portfolio Holder or the Executive, or a key decision taken by an officer, is considered by the Monitoring Officer and the Chief Executive to be urgent, it can take effect immediately the summary of the decision is published. If the decision is subsequently called – in, the Scrutiny Committee may still review the decision although the outcome will be not affected.

## **VALID CALL-INS**

13. Following the submission of a valid call-in, the Monitoring Officer will advise all Members of the called-in decision(s), the reasons submitted and the appropriate scrutiny committee. Unless otherwise agreed with the calling-in Members, call-ins will normally be considered by the appropriate scrutiny committee within four weeks of submission, either at the next scheduled meeting or, if necessary, at a special meeting.

## **COMMITTEE DECISION**

14. The appropriate scrutiny committee will consider the call-in. After consideration, the scrutiny committee can:
  - a) agree with the decision which has been called in, in which case it will be implemented with immediate effect;
  - b) agree with the decision but add informatives to submit to the decision maker;

- c) refer it to the decision maker for reconsideration, setting out in writing the nature of any concerns. The decision maker will consider the decision as soon as reasonably practicable (in the case of decisions made by the Executive as a whole this would normally be expected to be at its next meeting);

After re-consideration, the decision maker will either implement the original decision or amend it as appropriate.

- d) if it considers that the decision is contrary to the Budget or Policy Framework, refer the matter to the Council;
- e) refer it to the Council if it is considered that the consequences will be significant. Where a decision is within the purview of the Leader, individual Portfolio Holder or the Executive, the Council must refer the decision back to the decision maker, where appropriate, with any recommendations; or
- f) under certain circumstances, scrutiny committees can require the Leader, individual Portfolio Holder or the Executive to submit a report to Council where it thinks a key decision has been taken which was not included in the Forward Plan. The detailed procedure is set out in the Access to Information Procedure Rules at Part 4.

## **WITNESSES**

- 15. Calling-in Members are asked to indicate on submission of the call-in or as soon as possible thereafter, which witnesses they would wish to be invited to attend consideration of the call-in.
- 16. The Chairman will consider, in consultation with the Vice-Chairman and calling-in Members which witnesses will be invited. Up to 6 witnesses may be called, including the Leader, appropriate Portfolio Holder, or lead officer. The Leader, Portfolio Holder, and lead call-in Member will speak for up to 8 minutes; all other witnesses will speak for up to 4 minutes. The advice of the Monitoring Officer and Committee Lead Officer may also be sought.
- 17. In considering whether proposed witnesses are appropriate, the Chairman should ensure that there will be a good balance between differing views. The evidence which the invitee can give should be relevant and likely to assist the Committee in its deliberations.
- 18. The Leader or Portfolio Holder within whose remit the decision lies will be required to attend, if invited, as would relevant senior officers. Should the Portfolio Holder be unable to attend, another Portfolio Holder (usually the Leader) will be invited to attend on his or her behalf.

## Councillor Call for Action Protocol

### 1. Introduction

- 1.1 The "Councillor Call for Action"(CCfA) was introduced by Section 119 of the Local Government and Public Involvement in Health Act 2007 and Sections 19 and 20 of the Police and Justice Act 2006.
- 1.2 A CCfA enables any member of the Council to refer to an appropriate scrutiny committee any local government matter<sup>1</sup> or any crime and disorder matter<sup>2</sup> which affects their ward.
- 1.3 The power to refer a matter as a CCfA is available only where the matter is of direct concern to the ward which the councillor represents. A councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for councillors in multi-member wards to agree to refer a matter.

### 2. Limitations

- 2.1 CCfA should be used only as a 'last resort' after all other methods of resolution have been exhausted. The ward councillor bringing the CCfA must be clear at the outset as to what he or she expects to get out of the process.
- 2.2 CCfA may not be able to solve a given problem although it can provide a method for discussing problems and through discussion, trying to overcome them.

### 3. Issues excluded from referral as a CCfA

- 3.1 The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:
  - (a) any matter which is vexatious, discriminatory or not reasonable<sup>3</sup> to be included on the agenda for, or to be discussed at, a meeting of the scrutiny committee.
  - (b) any issues where there is a complaints process, including individual complaints concerning personal grievances or commercial issues.
  - (c) any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to

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<sup>1</sup> See Appendix 1 for definition of local government matter

<sup>2</sup> See Appendix 1 for definition of crime and disorder matter

<sup>3</sup> See Appendix 1 for definitions of vexatious, discriminatory or not reasonable

the Local Government Ombudsman), for example; planning and licensing applications and appeals, council tax/housing benefits complaints and queries, and issues currently under dispute in a court of law.

- 3.2 In addition to the above, a matter which is the same or substantially similar to one which has been the subject of a CCfA within the period of twelve months shall be regarded as an excluded matter
- 3.3 A CCfA submission should not be used instead of the Council's existing Call-In procedures.
- 3.4 The Monitoring Officer will advise and determine whether a CCfA is excluded under this paragraph. If the Monitoring Officer rejects the CCfA, he/she will inform the ward councillor(s) giving reasons for the decision.

#### **4. Steps to be taken prior to making a Councillor Call for Action referral**

- 4.1 A ward councillor referring a matter as a CCfA must have tried to resolve the issue/problem themselves. Ward councillors should:
  - (a) Ensure that all relevant and potential routes to solution within the Council have been followed, for example informal/formal discussions with officers and/or cabinet members, questions at committees and petitions.
  - (b) Ensure that it is not an issue that is currently being or should be pursued via the Council's complaints procedure or any other appropriate complaints procedure.
  - (c) Ascertain whether or not any other form of local scrutiny is investigating the issue,
  - (d) If a local crime and disorder matter whether the matter has been raised through the Surrey Heath Partnership (incorporating the Crime and Disorder Reduction Partnership).
  - (e) Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve it, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions or communication with local MPs.

#### **5. Submitting a Councillor Call for Action**

- 5.1 If after carrying out the steps in paragraph 4 above, the issue/problem is not resolved, the ward councillor can refer the matter as a CCfA. To do this the ward councillor should complete and submit to the Monitoring Officer a 'CCfA Request Form' (attached as Annex 2).
- 5.2 Following confirmation by the Monitoring Officer that the request is not excluded under paragraph 3 above, the Chairman of the appropriate scrutiny committee will be informed that the request has been received and that it will

be placed on the agenda for consideration by the Committee at its next meeting. If a meeting of the Committee is not scheduled within 28 days of receipt, a special meeting may be arranged following consultation with the Chairman.

- 5.3 The ward councillor(s) will also be informed that their referral has been successful.

## **6. Decision of the Scrutiny Committee whether to take the matter further**

- 6.1 The Committee's discussion needs to be focused on these expected outcomes and the expected outcomes should be clarified at the outset.
- 6.2 The Committee will consider the CCfA and the representations made by the ward councillor(s). Ward councillors are expected to submit a brief covering statement and setting out their views to present their CCfA to the Committee.
- 6.3 In considering the CCfA, the Chairman of the Scrutiny Committee, at the request of the ward councillor(s), may invite the relevant portfolio holder (or other member) Chief Executive or external organisation or any other witnesses to discuss the issue with the Committee and answer any questions. Reasonable notice will be given and all those invited should make every effort to attend (or send an appropriate representative).
- 6.4 The Scrutiny Committee will decide whether or not to take the matter further having regard to whether
- (a) all reasonable attempts have been made to resolve the issue;
  - (b) evidence has been supplied by the ward councillor to demonstrate that the matter is not being progressed;
  - (c) a similar or related issue is in the current scrutiny work programme and if so whether it would be more appropriate to link the issue to an existing review;
  - (d) all relevant service areas or partner organisations have been informed and have been given enough time to resolve the issue;
  - (e) the issue is being or should be pursued via the Council's corporate complaints procedure or any other complaints process;
  - (f) the issue is currently being looked at by another form of local scrutiny.

## **7. Considering the CCfA**

- 7.1 In considered the CCfA the Committee may decide to
- (a) not take up the CCfA;
  - (b) deal with matter at the first meeting; or
  - (c) agree to investigate the matter further.
- 7.2 If the Committee decides to accept the CCfA referral, it should agree how and when it intends to take the matter forward.



- 7.3 If it agrees to investigate the matter further, it should be included on the work programme. The Committee may set up a working group if necessary. The Committee should also decide which members, witnesses, partners and officers should be invited to contribute to the investigation.
- 7.3 The ward councillor(s) will be informed in writing of the decision of the Committee and any course of action proposed. If the Committee decides not to take up the CCfA referral reasons for that decision must be provided.

## **8. Potential outcomes**

- 8.1 Following consideration after CCfA investigations and the results of any review, the Scrutiny Committee may:
- (a) make recommendations on the CCfA to the Leader, Portfolio Holder or the Executive and/or other appropriate body or relevant partners organisations; or
  - (b) decide that no further action is necessary.
- 8.2 The ward councillor will be informed of the Committee's decision.

## **APPENIDX 1**

### **EXPLANATORY NOTES**

#### **Definition of a Local Government Matter**

For the purpose of the Act a local government matter, in relation to a member of a local authority is one which:

- (a) Relates to the discharge of any function of the Council,
- (b) Affects all or part of the electoral area for which the referring member is elected or any person who lives or works in the area (i.e. it must be specific to a particular locality); and
- (c) Is not an excluded matter.

The guidance produced by the Centre for Public Scrutiny and Improvement and Development Agency advises that, to give full effect to CCfA, the interpretation of "local government matter" needs to be broader. This includes issues relating to the Council's partners, in line with the area focus of Comprehensive Area Assessment (CAA), and the fact that an authority's duties increasingly impact on other organisations, and involve partners within and outside the Local Strategic Partnership.

#### **Definition of a Local Crime and Disorder Matter**

A local crime and disorder matter, in relation to a member of a local authority, has been defined to mean a matter concerning:

- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- (b) the misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area.

#### **Definitions of "vexatious", "persistent", "discriminatory" and "not reasonable"**

Statutory regulations deal with matters that can be excluded from CCfA, stating that "any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the scrutiny committee is to be excluded".

##### **(a) Vexatious/Persistent**

Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause. Issues around persistency are implied by this definition. However, a persistent request may

well be entirely valid - it may relate to a systematic problem that has not been effectively resolved.

CCfAs need to be looked at on their merits, rather than on the basis of who is bringing them, or whether somebody thinks there is an ulterior motive for them being brought. Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the councillor concerned. There could, however, be instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the councillor's requirements.

**(b) Discriminatory**

A modern interpretation of the word "discrimination" is provided at Section 45 of the Equality Act 2006, in relation to religion and belief, as follows:-

*A person (A) discriminates against another (B) if on the grounds of the religion or belief of B or of any other person except A, A treats B less favourably than he treats others.*

This definition can easily be amended to deal with other forms of discrimination, such as discrimination for reasons of sex and/or race. So a discriminatory CCfA might be one which implies or states that a group of people or an area receives better, or worse, services on account of that group's predominant religion, race, sex or other characteristic, as covered by discrimination legislation.

**(c) Not reasonable**

It is suggested that, in the interests of transparency, authorities do not interpret "not reasonable" as being the same as the legal word "unreasonable". It is best to consider it as a qualifier to the word "vexatious", as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.

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# **PART 4 - PROCEDURAL RULES**

## **SECTION D**

### **COMMITTEES, SUB COMMITTEES AND OTHER BODIES PROCEDURE RULES**

#### **COMMITTEES AND SUB-COMMITTEES - GENERAL**

##### **1. Application**

These Rules do not apply to the Executive except for Rules 24 to 33 relating to Working Groups. Procedure Rules for the Executive and Scrutiny Committees are already included in the Constitution elsewhere in Part 4.

##### **2. Size of Committees**

The size of Committees and other bodies will be decided by the Council at its Annual Meeting.

##### **3. Terms of Reference**

The terms of reference of committees and other bodies is set out in Part 3 of the Constitution.

##### **4. Who may sit on Committees**

4.1 All councillors may be members of a committee except:

- (a) At least 2 members of the Employment Committee will be members of the Executive.
- (b) At least one member of the Executive will be appointed to the Appointments Sub Committee.
- (c) At least one member of the Executive will be appointed to a Hearing Sub Committee
- (d) At least one member of the Executive will be appointed to an Appeals Sub Committee
- (e) No more than 25% of the employer's representatives on the Joint Staff Consultative Group will be members of the Executive.
- (f) No more than 10% (rounded up) of members appointed to the Planning Applications Committee will be members of the Executive.

- (d) No more than 10% (rounded up) of members appointed to the Licensing Committee will be members of the Executive.

## **5. Substitute Members of Committees**

- 5.1 Procedures for the appointment of substitute members of committees can be found in the Substitution Procedural Rules at Part 4 of the Constitution.

## **6. Chairing Committees**

- 6.1 The Council will appoint chairmen and vice-chairmen of all committees at its Annual Meeting.
- 6.2 In the absence of the chairman and vice-chairman, the committee will appoint a chairman for that meeting or part of that meeting, as appropriate. The person presiding at the meeting may exercise any power or duty of the chairman.
- 6.3 At any meeting of a committee, a councillor may propose that “the meeting has no confidence in the chairman.” The question will, after debate, be put and if carried by a majority of at least two thirds of the councillors present, the chairman will stand down and the remainder of the meeting will 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.
- 6.4 Following a successful vote of no confidence in the chairman, he or she will not officiate at any subsequent meeting of the committee prior to the next meeting of the Council. At that meeting, the Council will consider whether to confirm the vote of no confidence. If by a simple majority the Council decides to confirm the vote, the office of chairman of the committee will be declared vacant and a new chairman will be elected by the Council.
- 6.5 No member of the Executive will chair any meeting of the Planning Applications Committee, the Licensing Committee or the Joint Staff Consultative Group or be the vice-chairman of that Group.

## **7. Appointment of Sub-Committees**

- 7.1 Committees may appoint such sub-committees as they consider appropriate.
- 7.2 The terms of reference of any sub-committee which can exercise statutory powers, such as the Licensing Sub-Committee, are set out in Part 3 of the Constitution.
- 7.3 Sub-committees shall appoint their chairman in such manner and for such period as they may determine.

## **8. Membership of Sub-Committees - General**

- 8.1 With the exception of the Licensing Sub-Committee, whose membership shall comprise members of the parent committee, at least two-thirds of the members appointed to any sub-committee will be members of the Council unless decided otherwise by the Council.
- 8.2 Substitute members of sub-committees will only be permitted where the committee has appointed those substitutes. Substitute members may only attend meetings to take the place of the ordinary member where that member will be absent for the whole of the meeting.

## **9. Time and Place of Meetings**

Meetings of committees or sub-committee will normally be held at Surrey Heath House, in public, at the dates and times specified in the annual timetable of meetings set by the Chief Executive.

## **10. Duration of Meetings**

- 10.1 At all committee meetings, subject to 10.2 below, at 10.00pm no further items of business will be conducted save for the conclusion of the item of business under discussion and that the meeting be adjourned to another date if there are outstanding items.
- 10.2 At meetings of the Planning Applications Committee, should only one further application remain to be determined at 10.00pm, then the Committee may consider that further application;
- 10.3 Committees are unable to suspend the Procedure Rule relating to the duration of the meeting.

## **11. Special Meetings of Committees**

- 11.1 The Chairman, the Mayor, or five members of a committee may call a special meeting of a committee at any time.
- 11.2 The summons to a special meeting will set out the business to be considered, and no other business will be considered at the meeting.

## **12. Who May Attend**

- 12.1 Members of the public may attend any committee or sub-committee meeting except where exempt or confidential information is being considered.
- 12.2 With the exception of an Appointments Sub Committee, a Hearing Sub Committee, an Appeals Sub Committee, the Joint Staff Consultative Group or the Employment Committee when considering any items on Part II of the agenda that in the view of the Monitoring Officer and Executive Head of Transformation, in consultation with the Chairman and Vice Chairman of the Employment Committee, directly affect an individual's employment, any councillor may attend any committee or sub-committee meeting.

- 12.3 Attendance by any councillor at committee or sub-committee meetings will be recorded in the minutes of the meeting.
- 12.4 With the exception of meetings of the Licensing Sub-Committee, a councillor who attends a meeting of a committee or sub-committee may speak at the meeting on any agenda item.
- 12.5 A councillor who has moved a motion at Council which has been referred to a committee will be informed of the committee meeting at which it will be considered so that he/she can attend.

## **12A. Voting**

- 12A.1 Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.
- 12A.2 If there are equal numbers of votes for and against, the Chairman will have a second or casting vote.
- (a) If the Chairman fails to vote when the main vote is taken, an equality of a vote cannot be achieved by the Chairman casting an original vote and following that action with a casting vote. The Chairman's casting vote may be used whether or not the Chairman has already voted.
- (b) with the exception of (c) below, in the event of a tied vote, the proposer of the matter under debate shall have the opportunity of making a further speech of no more than 3 minutes. A further vote will then immediately be taken. If deadlock has not been broken, the Chairman must cast a vote in favour of the status quo. The status quo will usually be interpreted as the motion falling.
- (c) There will be no restriction on how the Chairman of the Planning Applications Committee chooses to exercise a casting vote.
- 12A.3 The Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.
- 12A.4 If, before the Chairman begins to take a vote, three members present at the meeting demand it, the names for and against the motion or amendment or abstentions from voting will be taken down in writing and entered into the minutes. Each member present will be called by name and asked to indicate whether they are voting in favour of, or against the motion or amendment or abstaining from voting.
- 12A.5 Where any member requests it immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.



### **13. Application of Council Procedure Rules**

The following Council Procedure Rules apply to meetings of committees and sub-committees with any references to 'the Mayor' being substituted by 'the Chairman'.

- (a) Notice of and Summons to Meetings - Rule 5
- (b) Cancellation of a Meeting - Rule 6
- (c) Previous decisions and motions - Rule 16
- (d) Minutes - Rule 18
- (e) Record of Attendance - Rule 19
- (f) Members' conduct - Rules 21.5, 21.6 and 21.7
- (g) Disturbance by the Public - Rule 22

### **14. Quorum**

- 14.1 The quorum for meetings of committees and sub-committees, except as provided for below, is one third of the membership rounded up, subject to a minimum of 2.
- 14.2 The quorum of the Licensing Sub-Committee is 3 members.
- 14.3 If after thirty minutes, a quorum is not present, the business will be adjourned to a fixed date or time or to the next ordinary meeting.
- 14.4 If during any meeting the Chairman notes that there is not a quorum present the meeting will be adjourned.

### **15. Business**

At each meeting of a committee or sub-committee held in public, the following business will be conducted:

- (a) apologies for absence;
- (b) consideration of the minutes of the last meeting;
- (c) declarations of interest, if any;
- (d) review of exempt items, if any;
- (f) the business as set out in the agenda.

### **16. Putting Items on the Agenda**

- 16.1 With the exception of meetings held for a specific statutory purpose, a chairman may require the Chief Executive to put on the agenda for any meeting, any matter which falls within the terms of reference of his/her committee or sub-committee.

16.2 Subject to the agreement of the chairman, any member of a committee or sub-committee, may ask the Chief Executive to place an item on the agenda for the next available meeting of the committee or sub-committee.

## **17. Exclusion of Public and Confidentiality**

17.1 Members of the public and press may only be excluded either in accordance with Section 100A (4) of the Local Government Act 1972 and the Access to Information Rules in Part 4 of this Constitution or Council Procedure Rule 22 (Disturbance by Public).

17.2 No person will disclose any matter dealt with in the absence of the public until such time as the Council, committee or sub-committee has determined that the matter can be released as information available to the public.

17.3 In addition, the Chief Executive or Executive Head of Corporate may at any time decide that any matter is no longer exempt within the meaning of Schedule 12A and will advise members accordingly.

## **PLANNING APPLICATIONS COMMITTEE**

### **18. Planning Applications Committee - Determining Planning Applications and other related consent applications**

18.1 The following Rules apply to meetings of the Planning Applications Committee when determining planning applications or other related consent applications.

#### **18.2 General**

18.2.1 With the exception of the Chairman, Members of the Committee will be seated alphabetically and clearly separate from any councillors in attendance.

18.2.2 Any councillor in attendance may speak at the meeting in relation to an item. In circumstances where members are not members of the Planning Applications Committee, the first councillor may speak for up to 8 minutes, with any subsequent councillors for up to 5 minutes.

18.2.3 At the start of the meeting, the Chairman will advise any members of the public and press present of the roles of the members of the Committee, the councillors in attendance and the officers.

#### **18.3 Determination of Planning Applications and any other related consent applications**

18.3.1 The Executive Head of Regulatory's report and recommendation will be introduced.

- 18.3.2 Public speaking to take place in accordance with the Procedure for Public Participation at Meetings set out in Part 4 of the Constitution.
- 18.3.3 The Chairman will invite debate on the application in relation to the Executive Head of Regulatory's recommendation.
- 18.3.4 The Chairman will invite a Member to make a proposal in relation to the Executive Head of Regulatory's recommendation.
- 18.3.5 The Chairman will ask for a seconder.
- 18.3.6 The proposal, once seconded, will be put to the vote. If the vote is lost, the Chairman will seek an alternative proposal.
- 18.3.7 Voting will be by a show of hands but the names of those members voting in favour, those voting against and those abstaining will be called out by the Legal Services Representative so that the names can be recorded on the audio record and in the minutes of the meeting. Where there is a unanimous vote this procedure does not need to be followed and the Chairman will state this for the record.
- 18.3.8 Members may not participate in the debate or vote in connection with any application unless they are present for the whole consideration of that application.
- 18.4 Decisions Made Contrary to the Executive Head of Regulatory's Recommendation
- 18.4.1 Where the Committee makes a decision to REFUSE an application contrary to the officers' recommendation, Members must give clear reasons for that decision and identify the planning reasons for refusal. The exact wording of those reasons may be delegated to the Executive Head of Regulatory to determine after consultation with the Chairman, Vice Chairman and ward councillors.
- 18.4.2 Where the Committee makes a decision to APPROVE an application contrary to the officers' recommendation, Members must give clear reasons for that decision, identify the conditions to be imposed and the reasons for the imposition of those conditions. The exact wording of the conditions and the reasons for their imposition may be delegated to the Executive Head of Regulatory to determine after consultation with the Chairman, Vice Chairman and ward councillors.

## **19 Public Participation at Planning Applications Committee**

Public speaking in relation to any application being considered by the Committee will only be permitted in accordance with the Procedure for Public Participation at Meetings set out in Part 4 of the Constitution.

## **STANDARDS HEARING SUB COMMITTEE**

### **20 Procedure at meetings of Standards Sub Committees**

When a written allegation of a complaint against a member of the Borough Council or a parish council within the Borough Council's area has been received, the Sub Committee will follow a set procedure which is set out in the Documents which support the Constitution.

## **LICENSING SUB-COMMITTEES**

### **21. Appointment of Licensing Sub-Committees**

The establishment of and appointment of members and substitute members of Licensing Sub-Committees, which are sub-committees of the Licensing Committee, is delegated to the Executive Head of Corporate.

## **WORKING GROUPS**

### **22. Appointment, duration, constitution and terms of reference**

The Council, the Executive and every committee and sub-committee may appoint working groups and determine their duration, constitution and terms of reference.

### **23. Membership**

- 23.1 Membership of a working group need not necessarily be drawn from the appointing body but will generally do so. Except for the Executive, the membership of working groups will reflect the political balance of the Council.
- 23.2 Membership of a working group will generally comprise councillors. However, if the appointing body considers it to be appropriate, officers of the Council or persons from outside the authority may be appointed as full or co-opted members.

### **24. Substitutes**

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. Where possible the same substitute will attend for the sake of continuity.

### **25. Appointment of Chairman**

Working groups will appoint their chairman in such manner and for such period as they may determine.

### **26. Who May Attend**

- 26.1 The public may not attend meetings of Working Groups.
- 26.2 Councillors who are not appointed Members of a Working Group may attend a meeting at the discretion of the Chairman subject to the prior approval of the Chairman and notification to the Democratic Services Manager.
- 26.3 Councillors who are the appointed substitutes of a Working Group may attend any meeting of the Working Group, whether or not the appointed Member is present.

**27. Application of Council Procedural Rules**

The following Council Procedural Rules apply to meetings of working groups any references to 'the Mayor' being substituted by 'the Chairman'.

- (a) Voting - Rule 17
- (b) Record of Attendance - Rule 19

**28. Proceedings to remain Confidential**

The proceedings of meetings of Working Groups will remain as confidential until they have been made public with the authority of the Council, the Executive, a committee or sub-committee, as appropriate.

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## **PART 4 - PROCEDURAL RULES**

### **SECTION E**

#### **PUBLIC SPEAKING PROCEDURE RULES**

##### **1. INTRODUCTION**

- 1.1 The Council allows members of the public to present petitions, speak at meetings and make presentations at meetings of the Council and to speak at Planning Applications Committee. Public speaking at meetings will only be permitted in accordance with these Procedure Rules.

##### **2. PRESENTATION OF PETITIONS AT COUNCIL MEETINGS**

- 2.1 Except at the Annual Meeting, public speaking in relation to petitions will be conducted at meetings of the Council in accordance with the Petitions Scheme set out at Part 4, Section L of this Constitution.

##### **3. QUESTIONS BY THE PUBLIC AT COUNCIL MEETINGS**

- 3.1 Except at the Annual Meeting, a maximum of thirty minutes will be allocated to allow members of the public, or formally constituted public groups or bodies previously registered with the Executive Head of Corporate, to ask questions of an Executive Portfolio Holder or Chairman of any Committee provided
- (a) it is relevant to some matter over which the Council has powers or duties or which specifically affects the Borough or part of it, or its residents; and
  - (b) it does not relate to planning or licensing applications or personal, exempt or confidential matters.
- 3.2 Questions will be heard in the order received. Where an individual submits more than one question for a meeting, one question of their choice will be prioritised and included in the order received, with any further questions heard after any questions received from other members of the public. Any questions that have not been heard once the thirty minutes have passed will receive a written response from the relevant Member.
- 3.3 Questions must be limited to 125 words. Any words exceeding this limit will not be published or considered as part of the question.
- 3.4 Questions that contain criticism directed at a named officer will be rejected by the Executive Head of Corporate. In such cases, the questioner will be given an opportunity to submit a revised question.

- 3.5 Questions and written responses will be published by 2pm on the day of the meeting.
- 3.6 The questioner will be permitted to ask a short supplementary question provided it is relevant to the original question and does not introduce a new subject matter. The Member to whom the question is directed may choose whether to answer the question orally at that time or defer for a written response within seven days.
- 3.7 Questions and responses will not be matters for debate.
- 3.8 Any person or body wishing to ask a question must submit the question in writing to the Executive Head of Corporate at least three clear working days before the Council meeting (i.e. if the meeting is on a Wednesday, the question must be received by 5 pm on the preceding Thursday).
- 3.9 If the Executive Head of Corporate decides that the proposed question does not meet the criteria in 3.1(a) and (b) above he/she will reject it and advise the questioner accordingly.
- 3.10 The Executive Head of Corporate, in consultation with the Monitoring Officer, has discretion to reject or defer a question received for a Council meeting in the pre-election period.

#### **4. PRESENTATIONS AT COUNCIL MEETINGS**

- 4.1 The Chief Executive, after consultation with the Mayor and Leader of the Council, may invite recognised public bodies or groups, or individuals, to make a presentation at a Council meeting, in relation to matters of major policy or where there is substantial interest by the public.
- 4.2 Matters to be the subject of the presentation must not relate to planning or licensing applications, personal, exempt or confidential matters.
- 4.3 The Chief Executive will issue the invitation to make a presentation to a body, group or individual not less than 14 days before the date of the Council meeting concerned.
- 4.4 The body, group or individual must notify the Chief Executive, in writing, at least 5 clear working days before the Council meeting of its/his/her intention to accept the invitation (i.e. if the meeting is on a Wednesday notice must be received by 5 pm on the preceding Tuesday). A copy of any material which it/he/she intends to produce at the meeting must also be received by the Chief Executive by the same deadline.
- 4.5 Presenters will be allowed a maximum of 15 minutes.
- 4.6 Following the presentation Members will be permitted to ask questions of the presenter.



## **5. DETERMINATION OF PLANNING APPLICATIONS BY FULL COUNCIL**

- 5.1 The Council has reserved to itself the power, in exceptional circumstances, to determine large-scale planning applications relating to land owned by the Council, or elsewhere if the proposed development is likely to have a very significant impact on the community, as determined by the Executive Head of Regulatory, after consultation with the Leader of the Council and Chairman of the Planning Applications Committee.
- 5.2 When determining these large-scale planning applications, with the exception detailed in 5.3 below, the rules for public participation at meetings of the Council will be those which apply at meetings of the Planning Applications Committee as set out below.
- 5.3 The number of speakers both in objection to and in support of the application will be determined by the Executive Head of Corporate after consultation with the Leader of the Council.

## **6. PUBLIC SPEAKING AT PLANNING APPLICATIONS COMMITTEE**

### Criteria to Trigger the Public Speaking Procedure

- 6.1 Public speaking at Planning Applications Committee meetings will be permitted in respect of a planning application and any other related consent applications to be determined by the Committee, where
- (a) there have been 10 or more written representations from separate households, or a petition signed by more than 50 signatories with addresses, in respect of an application for development within an urban area or village settlement, as defined by the Development Plan or
  - (b) there have been 5 or more written representations from separate households, or a petition signed by more than 25 signatories with addresses, in respect of an application for development outside an urban area or village settlement, as defined by the Development Plan.
- 6.2 In order to be counted in relation to the public speaking procedure, the representations or petitions must have been received no later than 10 working days before the date of the Committee meeting.
- 6.3 Where an application triggers the public speaking procedure, all those who have submitted written representations in compliance with paragraphs 6.2 above, will be notified and invited to register to speak at the Committee meeting.

### Allocation of speaking

- 6.4 A maximum of four persons will be permitted to speak on each application as follows:
- (a) 2 persons speaking in objection to the application;
  - (b) 2 persons speaking in support of the application.
- 6.5 The applicant or their agent will be offered one slot to speak in support of the application.
- 6.6 A Residents' Association, Business Association or Amenity Society, previously registered under this scheme, which has submitted a representation in respect of the application and registered to speak at the committee, will be entitled to one of the speaking slots. Should there be more than one organisation registering to speak, the slot will be allocated on a first come, first served basis.
- 6.7 An individual can only speak once on any application.
- 6.8 Only those persons from addresses within the vicinity of the site will be eligible to speak at the meeting. The vicinity will vary according to the nature of the proposed development and its potential impact on the community. The Executive Head of Regulatory will determine the circumstances in which this will apply.
- 6.9 Subject to the above, the spaces will be allocated on a first come, first served basis. All applications to speak must have been registered no later than 3 and a half clear working days prior to the meeting (i.e. noon on Tuesday preceding the meeting if the meeting is on a Monday.)
- 6.10 An individual or organisation wishing to speak can only register for a speaking slot which corresponds with the nature of the representation they have submitted, namely in objection or support.
- 6.11 The registered speaker may appoint another person to speak on their behalf or elect to share their time with other speakers.
- 6.12 In the event that the application of the above Procedure Rules do not apply or would result in unfairness, the Executive for Head of Corporate, after consultation with the Chairman of the Planning Applications Committee, be authorised to exercise discretion in agreeing the allocation of the public speaking slots in relation to any particular planning application

#### Speaking at the Meeting

- 6.13 A maximum of four minutes will be allocated to each speaker.
- 6.14 If a speaker has elected to share their allocated time with another speaker the time allocation will run continuously.

- 6.15 Public speaking will precede the Committee's debate on the application. Members of the public speaking in opposition to an application will speak before those speaking in support of an application.
- 6.16 The speakers will be required to confine their presentations to relevant material planning issues.
- 6.17 No material, including plans, photos, letters, or statements can be handed to the Committee members at, or just before, the committee meeting. Any such material may be submitted directly to Committee members and copied to the relevant planning officer.
- 6.18 Members may only ask the speakers questions for the purposes of clarification. The speakers will not be allowed to ask questions of Members or officers.

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# **PART 4 - PROCEDURAL RULES**

## **SECTION F**

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

#### **1. Scope**

These rules apply to all meetings of the Council, overview and scrutiny committees, area committees (if any), the Standards Hearing and Determination Committee and regulatory committees and meetings of the Executive (together called meetings).

#### **2. Additional rights to information**

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

#### **3. Rights to Attend Meetings**

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

#### **4. Notices of meeting**

The Council will give at least five clear working days' notice of any meeting by publishing a notice on the Council's website and by posting details of the meeting at Surrey Heath House, Knoll Road, Camberley (the designated office) and on the Council's Website.

#### **5. Access to agenda and reports before the meeting**

The Council will make copies of the agenda and reports open to the public available for inspection on the Council's Website and at the designated office at least five clear working days before the meeting. If an item is added to the agenda later, or where reports are prepared after the summons has been sent out, the revised agenda, and/or late report will be open to inspection from the time the item was added to the agenda or as soon as the report is completed.

#### **6. Supply of copies**

The Council will supply copies of:

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

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

## **7. Access to minutes etc after the meeting**

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings, 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 taken in the exempt part of the meeting where the open minutes would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) agenda reports relating to items when the meeting was open to the public.

## **8. Background papers**

### **8.1 List of background papers**

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

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

### **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 must be kept at and available to the public at Surrey Heath House, Knoll Road, Camberley (The Council Offices). (As the Constitution must be available to the public these Rules constitute the written summary.)

## **10. Exclusion of access by the public to meetings**

### **10.1 Confidential information requirement to exclude public**

The public must be excluded, by resolution, 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, by resolution, 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.

### **10.3 Meaning of confidential information**

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

### **10.4 Meaning of exempt information**

Exempt information means information falling within the 10 categories (subject to any qualification) defined in Appendix I to these Rules.

## **11. Exclusion of access by the public to reports**

If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **12. Application of Rules to the Executive**

12.1 In addition to Rules 1 to 11, Rules 13 to 19 also apply to the Executive.

## **13. Rights to Attend Meetings**

13.1 Further to Rule 3, any member of the public, may in any publicly available medium, reproduce, or provide commentary in relation to, any document supplied to that person or made available for inspection by members of the public.

## **14. Background papers**

14.1 Further to Rule 8, the Council will, at least 5 clear days before the meeting, publish on the Council's Website the background papers listed in agenda reports and make available copies at the Council Offices for public inspection.

## **15. Procedure before Holding Private Meetings of the Executive**

- 15.1 The Council will give at least 28 clear days' notice of any private meeting of the Executive by publishing a notice on the Council's website and by posting the notice at the Council Offices. The Notice will include a statement of the reasons for the meeting to be held in private.
- 15.2 At least five clear days before a private meeting the Executive must make available at the Council Offices and on the Council's website a further notice of its intention to hold a meeting in private. This notice will include:-
- (a) a statement of the reasons for the meeting to be held in private;
  - (b) details of any representations received by the Executive about why the meeting should be open to the public; and
  - (c) a statement of its response to any such representations.
- 15.3 Where the date by which a private meeting must be held makes compliance with this rule impracticable, the meeting may only be held in private where the Executive has obtained agreement, that the meeting is urgent and cannot be reasonably deferred, from:-
- (a) the Chairman of the relevant Scrutiny Committee; or
  - (b) if there is no such person, or if the Chairman of the relevant Scrutiny Committee is unable to act, the Mayor, or in his/her absence the Deputy Mayor.
- 15.4 As soon as reasonably practicable after the Executive has obtained agreement under rule 13.3 to hold a private meeting it must make available at the Council Offices and on its website a notice setting out the reasons why the meeting is urgent and cannot be reasonably be deferred.

## **16. Procedure Before Taking Key Decisions**

Subject to Rule 18 (general exception) and Rule 19 (special urgency), a key decision (as defined in Article 13.3 of the Constitution) may not be taken unless:

- (a) a notice has been published in connection with the matter in question;
- (b) at least 28 clear working days have elapsed since the publication of the notice; and
- (c) where the decision is to be taken at a meeting of the Executive or its committees or by the Leader or individual Portfolio Holders, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).



## **17. The Schedule of Key Decisions**

### **17.1 Publication of the Schedule of Key Decisions**

The Schedule of Key Decisions will be published at least 28 clear days prior to each meeting of the Executive.

### **17.2 Contents of the Schedule of Key Decisions**

The Schedule of Key Decisions will contain matters which there is reason to believe will be subject of a key decision to be taken during the period covered by the Schedule. Other significant decisions to be taken by full Council will be included for information in the Schedule. The Schedule will describe the following particulars where the information is available or might reasonably be obtained:

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

## **18. General exception**

Where notice of a matter which is likely to be a key decision, has not been published at least 28 clear days prior to the date on which the decision is to be made, then subject to Rule 19 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision in order to give the requisite notice;
- (b) the Chief Executive has informed the chairman, or if he is not available, the vice-chairman, of the relevant scrutiny committee or if there are no such persons, each member of that committee

in writing, by notice, of the matter to which the decision is to be made;

- (c) the Chief Executive has made copies of that notice available to the public at the Council Offices and published on the Council's Website; and
- (d) at least 5 clear working days have elapsed since the Chief Executive complied with (b) and (c).

## **19. Special Urgency**

- 19.1 If by virtue of the date by which a decision must be taken Rule 16 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chairman of the body making the decision, obtains the agreement of the chairman, or if he is not available, the vice-chairman, of the relevant scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chairman or vice-chairman of the relevant scrutiny committee, or if the chairman or vice-chairman of the relevant scrutiny committee is unable to act, then the agreement of the Mayor or in his /her absence the Deputy Mayor will suffice.
- 19.2 As soon as reasonably practical after the decision maker has obtained agreement under Rule 19.1 that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must make available a notice setting on the reasons that the meeting is urgent and cannot reasonably be deferred at the office of the Council and on the Council's website.

## **20. Report to Council**

### **21.1 When a scrutiny committee can require a report**

If a scrutiny committee thinks that a key decision has been taken which was not included in the Schedule of Key Decisions and was not

- (a) the subject of the general exception procedure (Rule 18); or
- (b) the subject of an agreement with a relevant scrutiny committee chairman, vice-chairman or the Mayor or Deputy Mayor (Rule 17);

the committee may require the Leader/Executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the committee when so requested by the chairman or any 5 Members of the relevant scrutiny committee. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant scrutiny committee.

## **21.2 Leader's/Executive's report to Council**

The Leader/Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, 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.

## **21.3 Reports on special urgency decisions**

In any event the Leader will submit a report to the Council, at least on an annual basis, on the Executive decisions taken in the circumstances set out in Rule 17 (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.

## **22. Record of decisions**

22.1 After any meeting of the Executive or any of its committees or following decisions made by the Leader or individual Portfolio Holder, the Chief Executive will produce a record of every decision taken as soon as practicable. The record will include:

- (a) record of the decision including the date it was made;
- (b) a record for the reasons for the decision;
- (c) details of any alternative options considered and rejected at the Executive 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 Executive which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

22.2 As soon as practicable after an individual member/officer has made an executive decision, that member/officer must produce a record of that executive decision which includes:

- (a) record of the decision including the date it was made;
- (b) a record for the reasons for the decision;
- (c) details of any alternative options considered and rejected by the member/officer when making the decision;
- (d) a record of any conflict of interest declared by any member of the Executive who is consulted by the member/officer which relates to the decision; and

- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

## **23. Scrutiny committees access to documents**

### **23.1 Rights to copies**

Subject to Rule 23.2 below, a scrutiny committee will be entitled to copies 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; or
- (b) any decision taken by an individual member of the Executive; or
- (c) any executive decision taken by an officer of the authority.

23.2 The Executive must provide a document that falls under Rule 20.1 as soon as reasonably practicable and in any case no later than 10 clear days after the Executive receives the request.

### **23.3 Limit on rights**

A scrutiny committee will not be entitled to any document that is in draft form.

## **24. Additional rights of access for members**

### **24.1 Material relating to business**

All members will be entitled to inspect any document which is in the possession or under the control of the Leader/Executive and contains material relating to any business transacted at a meeting or decision made by an individual member of the Executive. Any document will be available in accordance with Rule 5.1.

### **24.2 Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Leader/Executive which relates to any key decision.

### **24.2 Material in which a Member has an interest**

A Member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he/she has a professional interest or in which he/she has a Disclosable Pecuniary Interest.

### **24.3 Nature of rights**

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

## **25. Offences**

- 25.1 A person who has custody of a document that relates to an executive decision (agenda, reports, background papers or decisions) which is required to be available for inspection by members of the public commits an offence if, without reasonable excuse, that person:-
- (a) intentionally obstructs any person exercising a right conferred under these rules to inspect, or to make a copy of the whole or part of the document; or
  - (b) refuses to supply a copy of the whole or part of the document in accordance with these rules.
- 25.2 A person who commits an offence under Rule 22 is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

## APPENDIX I

### 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.
  - (a) Information which is subject to any obligation of confidentiality.
  - (b) Information which relates in any way to matters concerning national security.
  - (c) Information presented to a standards committee, or to a sub-committee of a standards committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1) (c) of the Local Government Act 2000.

#### 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 Act 1985;
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Industrial and Provident Societies Acts 1965 to 1978;
  - (e) the Building Societies Act 1986; or

- (f) the Charities Act 1993.
- 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.
- 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.

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# **PART 4 - PROCEDURAL RULES**

## **SECTION G**

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

#### **1. THE FRAMEWORK FOR EXECUTIVE DECISIONS**

The Council is responsible for the adoption of its budget and policy framework as set out in Article 4 of the Constitution. Once a budget or a policy framework is in place, it is the responsibility of the Leader to implement it.

#### **2. PROCESS FOR DEVELOPING THE FRAMEWORK**

The process by which the budget and policy framework shall be developed is as follows:

- 2.1 The Leader will include 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 or any amendment to it. This will include its arrangements for consultation on those proposals.
- 2.2 The Forward Plan will be published on the Council's Web Site. All councillors will be notified of the publication of the Forward Plan. This notification may be by e-mail. The consultation period allowed shall in each instance be not less than 4 weeks.
- 2.3 At the end of the consultation period, the Leader/Executive will draw up firm proposals having regard to the responses to that consultation. If a scrutiny committee wishes to respond to the Leader/Executive in that consultation process, then it may do so. As the scrutiny committees have responsibility for determining their own work programmes, it is open to each committee to investigate, research or report in detail with policy recommendations before the end of the consultation period.
- 2.4 The Leader/Executive will take any response from a scrutiny committee into account in drawing up firm proposals for submission to the Council. In considering the matter, the Council shall have before it the Leader/Executive's proposals and any report from any relevant overview and scrutiny committee.
- 2.5 The Leader/Executive may at any time formally request a scrutiny committee to consider and make recommendations to the Leader/Executive on any proposals relating to the budget or policy framework which the Leader/Executive is considering or intends to consider.
- 2.6 Once the Leader/Executive has approved the firm proposals, these proposals will be referred to the Council for decision at the earliest opportunity. In

reaching a decision the Council may adopt the Leader's/Executive's proposals, amend them, refer them back to the Leader/Executive for further consideration or, in principle, substitute its own proposals in their place.

- 2.7 If it accepts the recommendation of the Leader/Executive without amendment, the Council may make a decision which has immediate effect, unless the Council specifies otherwise. Otherwise it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- 2.8 The decision will be publicised in accordance with the Council's Procedure Rules on Access to Information and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Leader's/Executive's proposal without amendment) or (if the Leader's/Executive's proposals are not accepted without amendment) that the Council's decision will be come effective on the expiry of 5 working days after publication of the notice of decision, unless in that period the Leader objects to it and informs the Chief Executive, in writing, of that objection and the reasons for the objection.
- 2.9 Where such notification of objection is received under Rule 2.9 above, the Chief Executive, after consultation with the Mayor, will call a meeting of the Council to be held within a period of 28 days from the date the objection has been lodged and the decision shall not be effective pending that meeting. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- 2.10 The Council, at the meeting required under 2.9 above, may either approve the Leader's/Executive's proposals by a simple majority of votes cast at the meeting or approve a different decision that does not reflect the recommendations of the Leader/Executive by a simple majority.
- 2.11 The final decision taken will be publicised in accordance with the Council's Procedure Rules on Access to Information and will be implemented immediately unless the Council specifies otherwise.
- 2.12 In approving its budget each year, the Council may specify, in addition to such matters dealt with in the Financial Regulations (in Part 4 section H of the Constitution), the extent to which the Leader/Executive can agree virements within that budget and incur supplementary expenditure.
- 2.13 The Council shall also determine the degree to which in-year changes can be agreed by the Leader/Executive to the policy framework in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any changes to the budget or policy framework outside the parameters set by the Council shall be submitted to the full Council for approval unless Rule 3 below applies (ie decisions outside policy and budget framework).

### **3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 3.1 Subject to the provisions of paragraph 5 (virement) and 6 (in-year changes) the Leader/Executive, individual Portfolio Holders, officers or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to Rule 4 below.
- 3.2 If the Leader/Executive, individual Portfolio Holders, officers or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 4 (urgent decisions outside the budget and policy framework) shall apply.

### **4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 4.1 The Leader/Executive, individual Portfolio Holders, officers or joint arrangements 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 by full Council if the decision is a matter of urgency. If the decision is an urgent key decision, as well as a decision outside policy or budget, the relevant procedures (set out elsewhere in Part 4) must also be followed.
- 4.2 Such a 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, or in his/her absence, the vice chairman of a relevant scrutiny committee agrees that the decision is a matter of urgency, and that agreement is given in writing .
- 4.3 The reasons why it is not practical to convene a quorate meeting of full Council and the consent of the chairman or vice chairman of the relevant scrutiny committee to the decision being taken as a matter of urgency must be noted on the record of the decision. In the event of a matter affecting more than one scrutiny committee, the Chief Executive or the Monitoring Officer shall determine which chairman or vice chairman shall be consulted. Where the chairman or vice chairman of a scrutiny committee is not available for any reason, the Mayor, or in his/her absence, the Deputy Mayor shall be consulted.

4.4 Before a decision is taken, the Leader/Executive or decision-taker shall carry out, so far as it is reasonable, consultations with ward members where it affects a particular ward or wards and inform Group Leaders of the decision required. A record of the consultations must be given to the Monitoring Officer.

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

## **5. VIREMENT**

5.1 The Council sets virement limits within which decision-makers can exercise discretion in approving or otherwise financial transfers within the budget. The detail relating to virement is contained in the Council's Financial Regulations in Part 4 of the Constitution.

5.2 Steps taken by the Leader/Executive, individual Portfolio Holders, officers or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. Beyond that limit, approval to any virement across budget heads shall require the approval of the full Council.

5.3 The Leader/Executive is authorised to incur supplementary expenditure in any year, up to a limit of £250,000, which does not have an adverse revenue impact, subject to there being no cash-limited budgetary restraint being in place.

## **6. IN-YEAR CHANGES TO POLICY FRAMEWORK**

6.1 The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Leader/Executive, individual Portfolio Holders, officers or joint arrangements discharging executive functions must be in line with this Framework. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals unless those changes are necessary to ensure compliance with the law, ministerial direction or government guidance.

## **7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

7.1 Where a scrutiny committee is of the opinion that a decision of the Leader/Executive is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Section 151 Officer.

7.2 In respect of functions which are the responsibility of the Leader/Executive, the Monitoring Officer's report and/or Section 151 Officer's report shall be to

the Leader/Executive with a copy to every member of the Council.

- 7.3 Regardless of whether the decision is delegated or not, the Leader/Executive must decide what action to take in respect of the Monitoring Officer's report and to prepare a report to full Council in the event that the Monitoring Officer or the Section 151 Officer conclude that the decision was a departure, and to the scrutiny committee if the Monitoring Officer or the Section 151 Officer conclude that the decision was not a departure.
- 7.4 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Section 151 Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the scrutiny committee may refer the matter to full 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.
- 7.5 The Council shall meet within 28 days of the request by the scrutiny committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer. The Council may take one of the following actions:
- (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 Regulations 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 full Council be minuted and circulated to all councillors in the normal way;
- or*
- (iii) where the full 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 the Section 151 Officer.

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# **PART 4 - PROCEDURAL RULES**

## **SECTION F**

### **FINANCIAL REGULATIONS**

**JULY 2021**

#### **1. Scope and Context of Financial Regulations**

##### **1.1 Scope**

- 1.1.1 Financial Regulations are the basic rules applicable to key areas of financial administration. They must be available to and followed by all officers, members and agents acting for the Council. Together with the Procedure Rules, they regulate the conduct of Council business. The Financial Regulations, including advice, guidance and accounting instruction notes issued to underpin the Financial Regulations, apply to all services of the Council.
- 1.1.2 Financial Regulations form part of the Council's Constitution which is published on the Council's Website.
- 1.1.3 The Section 151 Officer is responsible for maintaining the Council's Financial Regulations, and they must be reviewed at least every 5 years. Financial limits detailed in Financial Regulations and Contract Standing Orders must be reviewed at least every 2 years. The Strategic Director of Finance and Customer Services will, from time to time, issue advice, guidance and accounting instruction notes to underpin the Financial Regulations, ensure compliance with specific statutory provisions, and reinforce best professional practice. Members, officers, and others acting on behalf of the Council are required to comply with such advice and guidance.
- 1.1.4 All staff within the Council are responsible for ensuring that Financial Regulations are followed where the regulations are relevant to the officer's work. All staff should uphold the main principles of the Regulations and ensure that their actions help to demonstrate that the Council is achieving value for money. It is the responsibility of the Chief Executive and the Corporate Management Team to ensure that the Financial Regulations are complied with. Failure to follow Financial Regulations and Contract Standing Orders must be reported immediately to the Section 151 Officer and could be treated as a disciplinary offence. If serious, the breach may also be reported to the Leader and/or the Executive.
- 1.1.5 Strategic Directors and Heads of Service will ensure that their staff are aware of the existence, and content, of the Council's Financial Regulations, accounting instruction notes and other corporate guidance, and ensure compliance with them.

1.1.6 Financial Regulations also apply to agents and consultants acting for the Council and to services carried out under agency arrangement, unless specifically exempted by the relevant Strategic Director or Head of Service with the agreement of the Section 151 Officer. In these cases, the circumstances of and reasons for such an exception must be recorded by the relevant Strategic Director or Head of Service.

1.1.7 Any transfer of work from one service to another must consider issues of compliance and accountability. Early clarification and agreement within the Corporate Management Team will help to reduce the risk of any problems escalating or remaining unresolved.

## **1.2 Financial Responsibilities**

1.2.1 The roles and responsibilities of members and officers are set out within the Council's Constitution. The purpose of the Financial Regulations is to provide an overview of the respective financial roles and responsibilities of members and officers within the Council. Specific financial responsibilities are set out in more detail throughout the subsequent sections of the Regulations. Detail of the financial responsibilities of the Council, the Cabinet, various committees, the Chief Executive, the Section 151 Officer, the Monitoring Officer and other Strategic Directors Strategic Directors and Heads of Service is provided in the Council Constitution.

## **1.3 Scheme of Delegation for Financial Management**

1.3.1 The Scheme of Delegation for Financial Management is set out in Section 6 of the Constitution. This defines how the financial responsibilities set out within these Financial Regulations are reserved or delegated to officers.

## **2. Financial Planning**

### **2.1 Policy Framework**

2.1.1 The Council's Constitution sets out the roles and responsibilities for members and officers in managing and controlling the Council's Finances. The Strategic Director of Finance and Customer Services has authority to amend these Financial Regulations, following consultation, if necessary for effective supervision and control, or to ensure full compatibility with the Council's Constitution.

2.1.2 Revenue budget and capital programme:

Every year a capital programme and estimate of revenue income and expenditure must be submitted to Full Council, after consideration by the Executive. The Strategic Director of Finance and Customer Services is responsible for collating these estimates and reports on them to the Full Council, with any comments and recommendations from the Corporate Management Team (CMT).



### 2.1.3 Treasury Management Strategy:

The Strategic Director of Finance and Customer Services will propose prudential indicators and a policy for the revenue provision for the repayment of debt (referred to as the 'Minimum Revenue Provision') annually to the Council in advance of the start of the financial year that is consistent with the Council's revenue budget and capital programme proposals. This strategy will comply with CIPFA's Codes of Practice on Treasury Management and the Prudential Framework for Capital Finance, relevant regulations and with the Council's own Treasury Management Policy Statement and Treasury Management Practices. It will set the parameters within which investment and borrowing activity will be managed during the next financial year.

### 2.1.4 Medium Term Resources Strategy (MTRS):

The Strategic Director of Finance and Customer Services will also carry out periodic reviews of the Council's Medium Term Resources Strategy (MTRS). The MTRS brings together key assumptions about financing resources (including Council Tax, NNDR and Government grants) as well as spending pressures over the medium to longer term. This enables the Council to plan for financial risks and thus inform the setting of service financial targets for the annual revenue budget and capital payments guidelines. The setting of financial targets within the available resource envelope is completed with reference to the priorities set within the Corporate Plan.

### 2.1.5 Income and Charging Policy

Strategic Directors and Heads of Service must comply with the Council's income and charging policy for the supply of goods or services and, in consultation with the Executive Head of Financial Services, review fees and charges annually, as part of the corporate planning process. An annual statement on fees and charges will be published on the Council's website in alignment with the budget setting timetable.

### 2.1.6 Pay Policy Statement

The pay policy statement will be prepared as required by regulations and approved by Council. It will set out the Council's policy on the level and elements of remuneration for each Chief Officer, the remuneration of other paid employees, and the relationship between the remuneration of its Chief Executive and other officers. It is also required to address other specific aspects of pay remuneration such as remuneration on recruitment, increases and additions to remuneration, use of performance related pay and bonuses, termination payments and transparency.

2.1.7 The Strategic Director of Finance and Customer Services will ensure that reports are presented to Council, as part of the annual budget setting process. The Leader/Executive will consider the aggregate effect of these programmes and estimates on the Council's financial resources. After consulting on proposed amendments and deciding on the supporting resources to be used,

the Leader/Executive will submit them to the Council for approval, recommending the transfer from the Collection Fund for the following financial year.

- 2.1.8 The Strategic Director of Finance and Customer Services must report to the Leader/Executive on the level of financial resources recommended for use each financial year and keep the Leader/Executive informed of the Council's finances and financial performance.

## **2.2 Budgetary Control - Revenue Budget**

- 2.2.1 The Council operates within an annual cash limit, approved when the annual budget is set. To ensure that the Council does not over-spend in total, each service is required to manage its own expenditure and income recovery within the cash limited budget allocated to it. Budget management also ensures that once the Council has approved the budget, the resources are used for their intended purposes and are properly accounted for.
- 2.2.2 Estimates of income and expenditure on revenue accounts must be prepared in the required form by senior managers in consultation with the Strategic Director of Finance and Customer Services.
- 2.2.3 The Leader/Executive must receive and approve annual revenue estimates from the Strategic Director of Finance and Customer Services in accordance with any set timetable and guidance. These must be prepared by Strategic Directors or Heads of Service, collated, and reviewed by the Strategic Director of Finance and Customer Services and should show for both income and expenditure:
- The actual result for the last completed year;
  - The original estimate for the current financial year;
  - The probable result (including any supplementary estimates) for the current financial year;
  - Estimated income and expenditure for the next financial year at current pay and price levels; and
  - An explanation of any major variations.
- 2.2.4 Where the Council has approved and adopted a cash limited budget any additional expenditure must be met by increased income or from savings within approved budgets. The inclusion of items in approved revenue estimates or capital programmes is evidence of approval to spend on them. Once proposed savings have been approved by the Leader/Executive, the Strategic Director of Finance and Customer Services will amend the budget accordingly.

## **2.3 Budget Monitoring - Revenue Budget**

- 2.3.1 For the provision of services under their control, Strategic Directors or Heads of Service may undertake expenditure of any type within approved budgets including the signing of contracts or agreements, provided the Council's Contracts Procedure Rules are followed and the advice of the legal and procurement is taken on all contracts of £50,000 and over in value, and any with unusual or potentially onerous clauses (see Contracts Procedure Rules Section I). Procurement should be notified to relevant officers and members by email where necessary. Strategic Directors and Heads of Service may undertake the day to day running and operation of services, including the control, purchase and disposal of stores and maintenance and repair of all buildings, land, and equipment within the remit of their service area, provided they have the budget, in accordance with the policies laid down by the Council or the Leader/Executive in these Financial Regulations and supporting Council Procedure Rules.
- 2.3.2 Once the budget is approved by the Council, Strategic Directors and Heads of Service are authorised to incur expenditure in accordance with the estimates that make up the budget. Strategic Directors and Heads of Service must however maintain effective budgetary control within their service(s) to ensure that spending is contained within the annual cash limit.
- 2.3.3 Strategic Directors and Heads of Service must not commit expenditure that would result in an approved budget being exceeded. Prior approval must be sought from the Strategic Director of Finance and Customer Services to increase the budget either by virement or by a supplementary estimate before additional commitments are made.
- 2.3.4 Strategic Directors and Heads of Service will:
- Ensure that all income and expenditure is properly recorded and accounted for;
  - Ensure that an appropriate budget holder structure is in place to ensure that responsibility is assigned for each item of income and expenditure under their control;
  - Ensure that individual budgets are not overspent;
  - Ensure that a budget monitoring process is in place; and
  - Regularly report to Management.
- Such reports will be prepared, in consultation with the Strategic Director of Finance and Customer Services, upon the service's projected 'controllable net expenditure' compared with its budget.
- 2.3.5 The Strategic Director of Finance and Customer Services will ensure that each budget holder receives or has access to timely information on income and expenditure for each budget, which is sufficiently detailed to enable them and their managers to fulfil their budgetary responsibilities.
- 2.3.6 The Strategic Director of Finance and Customer Services will monitor performance against the Council's budget on an on-going basis and will advise upon the Council's overall financial position. Specifically, the Strategic

Director of Finance and Customer Services will prepare reports to present to Executive on a quarterly basis. These financial overview reports will:

- Provide a comparison of the Council’s projected income and expenditure and the latest approved budget;
- Include an assessment of the Council’s treasury investments; and seek approval to changes to the approved budget (including virements).

## 2.4 Overspending and Supplementary Estimates

2.4.1 When an expenditure budget might be overspent or income budget not met, the Strategic Director or the Head of Service must consult the Strategic Director of Finance and Customer Services and then give advance notice to the Leader/Executive, explaining both the reasons for and the means of financing any variation. Any overspending or income shortfall must be covered within annual estimates, or by a supplementary estimate. The Budget Manager must prepare a Supplementary Estimate bid for consideration by CMT and approval by the Leader/Executive. It should be noted that Supplementary Estimates are only granted in exceptional circumstances and may require Full Council approval.

## 2.5 Scheme of Virement

2.5.1 Strategic Directors and Heads of Service must ensure that spending remains within the service’s overall cash limit, and that spending does not exceed individual policy budget headings. It is however permissible, in certain circumstances, to switch resources between approved budget headings, subject to obtaining the necessary approval. The switching of resources between approved policy budget headings is referred to as a virement.

2.5.2 Virements may be approved in accordance with the delegated authorities set out below, subject to the following:

- All corporate priorities, service, performance, and budget targets must be maintained;
- All corporate guidelines and policies must be followed;
- Conditions of service and the approved establishment must be complied with;
- A single “one-off” budget must not be transferred to fund a new ongoing item of expenditure;
- Budgets not under effective control of the budget holder must not be vired e.g., rates or insurance; and
- Virement cannot be used to change a service base budget for future years.

<b>Value of Virement</b>	<b>Delegation</b>	<b>Evidence Required</b>
<b>Up to £1,000</b>	<b>Not permitted – to be managed within budget</b>	<b>Not permitted</b>
<b>£1,000 to £9,999</b>	<b>Budget holder and Strategic Director of</b>	<b>Written authorisation from Strategic Director</b>

	<b>Finance and Customer Services</b>	<b>of Finance and Customer Services</b>
<b>£10,000 and over</b>	<b>Budget holder, Strategic Director of Finance and Customer Services and Chief Executive</b>	<b>Written authorisation from Strategic Director of Finance and Customer Services and Chief Executive (usually by way of a minute from the Corporate Management Team)</b>

2.5.3 If the proposed transfer affects budget heads controlled by another Strategic Director or Head of Service the transfer must be authorised by both affected members of the Corporate Management Team.

## **2.6 Treatment of Year-end balances - Carry Forwards**

2.6.1 In certain circumstances, it is permissible to carry unspent budget forward for use in the following year.

2.6.2 Provision for carry forward of unspent capital budget items is made under capital programme arrangements, whereby spend may be projected over several years. This is subject to approval by Full Council.

2.6.3 In the first quarter of a new financial year Strategic Directors or Heads of Service may apply to carry forward part of a revenue budget not spent, or of income not collected from one financial year to the next (minimum value £1000). A brief description of the relevant circumstances and explanation of the need for carry forward must be prepared by the Strategic Director or the Head of Service and authorised by the Chief Executive. All such requests will be aggregated and considered collectively on one occasion annually. The approval process for aggregate value of carry forward requests is set out below:

<b>Up to £1,000</b>	<b>Not permitted</b>
<b>£1,000 - £25,000</b>	<b>Chief Executive (normally by way of a minute from Corporate Management Team)</b>
<b>£25,000 and over</b>	<b>Executive</b>

## **2.7 Capital Programme**

2.7.1 The Strategic Directors and Heads of Service must prepare capital bids in accordance with the timetable prepared by the Strategic Director of Finance and Customer Services. These will then be considered by the Corporate Management Team for review and submission to Executive and Full Council for approval. Each bid must include the following details:

- Name of scheme;

- Project officer responsible for delivering the scheme on time, to budget and in accordance with the specification;
  - Timescale and any limiting factors/constraints;
- Robust estimated total cost of project including appropriate levels of contingency;
- The apportionment of estimated costs between financial years (where the scheme will not be delivered within the financial year in which it is authorised);
- Estimated annual revenue costs on project completion (e.g., additional staffing, goods, services, and maintenance); and
- Estimated revenue savings or additional income as a result of the capital investment.

2.7.2 Any proposed capital project not previously included in the approved Capital Programme must be the subject of a separate Executive report for recommendation to Full Council, in consultation with the Strategic Director of Finance and Customer Services.

The report must detail:

- Project officer responsible for delivering the scheme on time, to budget and in accordance with the specification;
- Reasons why the scheme was not included in the annual Capital Programme approved by Full Council in February preceding the start of the financial year;
- Timescale and any limiting factors/constraints;
- Financial costs and benefits analysed over all relevant elements;
- Any return on investment;
- Estimated annual revenue costs on project completion (e.g., additional staffing, goods, services, and maintenance); and
- Estimated revenue savings or additional income as a result of the capital investment.

2.7.3 Once Full Council approves a Capital Programme, the nominated Project Officer must arrange for the land and resources needed to be acquired. The Strategic Director of Finance and Customer Services must report to the Leader/Executive on how the Capital Programme will be funded, for onward recommendation to Full Council in the February preceding the start of the financial year.

2.7.4 The Project Officer must ensure that estimates for capital schemes must be robust and appropriate levels of benchmarking are undertaken to properly assess market prices. Estimates should be regularly reviewed to ensure that anticipated project costs are consistent with estimates included in the Capital Programme. Subject to section 2.7.5 below, if the Project Officer considers that the relevant estimate in the Capital Programme may be inaccurate due to any change in market prices or the need for additional works or services, the Project Officer must seek approval for additional funding without delay.

2.7.5 Any proposal to increase the provision for a project within an approved Capital Programme by the lesser of 5% of that provision or £10,000, must be submitted to the Leader/Executive, with reasons for the proposed change and

the financial effects for both capital and ongoing revenue. Any proposal for deletion of a scheme from the Programme must be submitted to the Leader/ Executive.

2.7.6 Expenditure is classified as capital expenditure when:

- It results in the acquisition, construction, or the addition of subsequent costs to non-current (i.e., fixed) assets that will be held by the Council for use in the production or delivery of services, for rental to others or for administrative purposes and that are expected to be used during more than one financial year;
- It is defined by Regulation as capital (e.g., where expenditure that would ordinarily be treated as capital relates to an asset that the Council has no future direct control over or is unlikely to receive any benefit from);
- it is classified by Government Direction as capital.

2.7.7 However, expenditure on assets meeting the capitalisation criteria outlined above may nevertheless be charged to revenue rather than capital, if they are below the de-minimis limit of £10,000, as set out in the Council's annual Statement of Accounting Policies.

2.7.8 Where expenditure meets the capitalisation criteria set out above, and is in excess of the Council's de-minimis limits, it will be classified as capital expenditure, even if provision exists within the Revenue Budget to fund the work. Similarly, where specific financing (e.g., government grant) is provided to facilitate a project, this will not determine the accounting treatment of the expenditure. That is, the accounting treatment is determined according to the type of expenditure, and not by the funding source.

## **2.8 Maintenance of Reserves and Balances**

2.8.1 Reserves are maintained as a matter of prudence. A general reserve (i.e., the General Fund Balance) is maintained as a contingency fund and earmarked reserves are held for specific earmarked policy purposes.

2.8.2 For each reserve established, the purpose, usage (including the timeframe for usage) and basis of transactions will be clearly articulated in an annual report to the Audit & Standards Committee. Authorisation to finance expenditure from reserves will require the approval of the Strategic Director of Finance and Customer Services unless alternative arrangements were agreed when the reserve was established.

2.8.3 The Strategic Director of Finance and Customer Services will advise upon prudent levels of reserves and balances for the Council, considering the degree of risk in the budget for the Council over the medium and longer term, in the financial reports submitted to Full Council in the February in advance of the financial year.

2.8.4 Under section 114 of the Local Government Finance Act 1988 the Strategic Director of Finance and Customer Services must report to Council if there is

or is likely to be unlawful expenditure or an unbalanced budget. This would include situations where reserves have become seriously depleted and it is forecast that the Council will not have the resources to meet its expenditure in a particular financial year.

### **3. Accounting Records and Financial Systems**

#### **3.1 Accounting Records**

- 3.1.1 The Strategic Director of Finance and Customer Services determines the accounts, accounting procedures and financial records of the Council and its officers and must approve and advise on records and procedures in services, and any changes to them.
- 3.1.2 The principle of segregation of duties must be followed. If this is not possible for operational reasons, then other methods of control approved by Internal Audit must be in place.
- 3.1.3 Prime financial records must not be altered without such alteration being clearly auditable. Where alterations are made to records passing between services, the officer making the alteration must notify the originating officer of all changes made.

#### **3.2 Annual Statement of Accounts**

- 3.2.1 The Council has a statutory responsibility to prepare its accounts to present a true and fair view of the financial performance and results of its activities during the year and is responsible for approving and publishing those annual statements in accordance with the timetable specified in the Accounts and Audit Regulations as amended from time to time.
- 3.2.2 The Strategic Director of Finance and Customer Services is responsible for selecting suitable accounting policies, and for applying them consistently, to ensure that the Council's annual statement of accounts is prepared in compliance with the CIPFA Code of Practice on Local Authority Accounting in the United Kingdom and other relevant accounting standards and statutory provisions.
- 3.2.3 The Strategic Director of Finance and Customer Services will issue accounting instruction notes on closure of the accounts, including a timetable, annually. All budget holders must comply with these accounting instructions and supply the information requested by the dates specified.
- 3.2.4 The Strategic Director of Finance and Customer Services must sign and date the Statement of Accounts, thereby confirming that the accounts give 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. The Strategic Director of Finance and Customer Services is responsible for making proper arrangements for the audit of the Council's accounts.



### **3.3 Financial Systems**

- 3.3.1 The Strategic Director of Finance and Customer Services has responsibility for ensuring that the Council's financial systems are sound, properly maintained and are held securely.
- 3.3.2 Strategic Directors and Heads of Service must ensure that prior approval is obtained from the Strategic Director of Finance and Customer Services to operate any financial system within or on behalf of their area of responsibility.

### **3.4 Risk Management**

- 3.4.1 It is the overall responsibility of the Performance and Finance Committee to review the Council's Risk Management Policy and Strategy and the Corporate Risk Register.
- 3.4.2 The Corporate Risk Management Group is responsible for preparing the Council's Risk Management Policy and Strategy, and for promoting it throughout the Council where appropriate, and to review and update the risk register
- 3.4.3 Strategic Directors or Heads of Service must have regard to the advice of the Risk Management Group and adhere to the Council's Risk Management Policy and Strategy.

### **3.5 Insurance**

- 3.5.1 The Strategic Director of Finance and Customer Services must arrange all insurance cover and negotiate all claims in consultation with other officers, as necessary. The Council must review its level of risk cover at least annually.
- 3.5.2 Strategic Directors and Heads of Service must keep the Strategic Director of Finance and Customer Services informed of:
- All new or emerging risks;
  - Additional properties or vehicles that need to be insured;
  - Any alterations to service delivery affecting existing insurances; and
  - Any special risks regarding contracts.

They must review all insurances in consultation with the Strategic Director of Finance and Customer Services as and when necessary, consulting the Strategic Director of Finance and Customer Services on the terms of any indemnity that the Council is asked to provide.

- 3.5.3 The Strategic Director of Finance and Customer Services must maintain appropriate records detailing all insurances arranged for the Council and keep Strategic Directors or Heads of Service informed, as necessary. Strategic Directors or Heads of Service must keep records of all plant, vehicles, furniture, and equipment under their control, to be available for inspection by the Strategic Director of Finance and Customer Services.

- 3.5.4 In the event of any potential loss, liability, damage, or other event likely to lead to a claim, Strategic Directors or Heads of Service must promptly notify and provide a written report to the Strategic Director of Finance and Customer Services. Officers must never verbally admit liability, take any action or record in any way an admission of liability on behalf of the Council.
- 3.5.5 All employees of and voluntary workers for the Council must be included in a suitable fidelity guarantee policy.
- 3.5.6 Unless qualifying as a small claim (under £200), an insurance claim should be made where possible and no payments made to third parties in lieu of or advance for damage to third party property. Strategic Directors or Heads of Services are responsible for ensuring that claims are completed in the manner prescribed by the Strategic Director of Finance and Customer Services.
- 3.5.7 The Strategic Director of Finance and Customer Services has authority to make ex-gratia payments of up to £200 for any single claim.
- 3.5.8 Strategic Directors or Heads of Services must obtain details of insurance cover arranged by organisations that own or lease buildings on Council held land at least annually.

### **3.6 Preventing Fraud and Corruption**

- 3.6.1 The Council has an Anti-fraud and Corruption Policy and maintains a culture that will not tolerate fraud or corruption. It is the responsibility of the Head of Human Resources to maintain the Council's Anti-fraud and Corruption Policy.
- 3.6.2 In accordance with the Council's Speaking Up Policy, all suspected irregularities must be reported in the first instance to line management or failing this to any Executive Head or Head of Service, the Monitoring Officer, the Council's external auditors, or the Internal Audit Manager. The Head of Human Resources is responsible for the maintenance and operation of the Speaking Up Policy.
- 3.6.3 To avoid giving rise to suspicion about the honesty and integrity of the Council or its employees, or giving the impression of corruption or improper behaviour, all interests of a personal and/or financial nature with external bodies or persons who have dealings with the Council, or any other interests which could conflict with an officer's duties, must be declared in accordance with the Code of Conduct for Officers.
- 3.6.4 Officers must be cautious regarding offers of gifts and hospitality as acceptance can give the impression of improper behaviour or favour. The Council's Code of Conduct for Officers explains how offers of gifts and hospitality are to be dealt with, including what can or cannot be accepted and what must be declared. The Chief Executive must ensure that a gifts and hospitality register is established and maintained.

- 3.6.5 All Council officers and elected members are required to complete a declaration of interest form annually. This must be returned to the Council Monitoring Officer and the Strategic Director of Finance and Customer Services within required timescales.
- 3.6.6 Officers should be aware of and have regard to risks of money laundering. Money laundering is the process that turns money obtained illegally or through criminal activity into funds that appear lawful and can therefore be spent as if they were from legal sources. Examples of money laundering offences include tax evasion, theft, fraud, bribery, corruption, smuggling, modern slavery, human trafficking, drug trafficking and illegal arms sales.

The definition of money laundering is broad. Money laundering is a process whereby criminals:

- Retain, disguise, and conceal the proceeds of their crimes; or
- Raise, consolidate, or retain funds for use in financing terrorism.

In UK law money laundering is defined in the Proceeds of Crime Act (2002) and includes all forms of handling or possessing criminal property, including possessing the proceeds of one's own crime, and facilitating any handling or possession of criminal property.

Criminal property (defined in POCA) constitutes or represents a person's benefit from criminal conduct where the alleged offender knows or suspects that the property in question represents such a benefit. Criminal property may take any form, including money or money's worth, securities, tangible property, and intangible property.

- 3.6.7 Any suspected attempts to use the Council to launder money must be reported to the Strategic Director of Finance and Customer Services who is also the Council's Money Laundering Reporting Officer.
- 3.6.8 To mitigate the risks of the Council being used to launder money cash payments in excess of £5,000 will not be accepted except with the prior approval of the Strategic Director of Finance and Customer Services.
- 3.6.9 In accordance with the Council's Bribery Policy and Procedure, the detection, prevention and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control.

## **4. Audit Requirements**

### **4.1 External Audit**

- 4.1.1 The basic duties of the external auditor are defined in the Local Audit and Accountability Act 2014. 'Local audit' relates to the audit procedure which must be followed by all local authorities, fire authorities, Police and Crime Commissioners, Clinical Commissioning Groups, and various related bodies in England. The procedures require the auditor to review and report upon:

- The Council's Accounts;
  - Whether the Council has made proper arrangements for securing financial resilience and
  - Whether the Council has proper arrangements for securing value for money (i.e., through economy, efficiency, and effectiveness).
- 4.1.2 The primary role of external audit is to report on the Council's financial statements and to carry out such examination of the statements and underlying records and control systems as are necessary to reach their opinion on the statements and to report on the appropriate use of funds. Their duties will be in accordance with advice set out by the Public Sector Audit Appointments (PSAA) organisation.
- 4.1.3 The Strategic Director of Finance and Customer Services, in conjunction with the external audit lead officer advises on the development of the annual audit plan, leads on any negotiations related to the annual audit fee and advises the Executive and Members on their responsibilities in relation to external audit and issues arising from the Annual Audit and Inspection Letter (the ISA160 report).
- 4.1.4 Strategic Directors and Heads of Service are required to ensure that external auditors are given access at all reasonable times to premises, personnel, documents, and assets, and provided with information and explanations which the external auditors consider necessary for the purposes of their work, in the timescales required.
- 4.1.5 Strategic Directors and Heads of Service are also required to consider and respond promptly to recommendations in audit reports, ensure that agreed actions arising from audit recommendations are carried out in a timely and efficient fashion and in line with the timescale agreed with the external auditor, and report on progress.

## **4.2 Internal Audit**

- 4.2.1 The Head of Legal and Democratic Services is responsible for providing an adequate and effective internal audit of all Council activities. The duties and functions of Internal Audit are regulated in the Public Sector Internal Audit Standards, and the Accounts and Audit Regulations 2015.
- 4.2.2 Internal Audit is governed by terms of reference and the Audit Charter agreed by Members. Internal Audit will review and report on all the activities and operations of the Council as a service to management. The purpose of these reviews is to:
- Promote economy, efficiency, and effectiveness in the use of Council resources and thereby secure value for money;
  - Ensure systems are in use to protect the Council against fraud and other irregularities;
  - Ensure that records are kept, and that information produced is reliable, necessary, and appropriate;

- Appraise and report on compliance with established policies, plans and procedures;
- Produce a full position statement on cause and effect where fraud or any other improper act is suspected, that either directly or indirectly affects the Council's finances or assets.
- Report key findings to management and flag areas for improvement through audit recommendations

4.2.3 On production of identification, officers from the Internal Audit team may:

- Enter any Council premises or land;
- Access all records, documents and correspondence relating to any Council transactions;
- Require and receive any explanations needed concerning any matter under investigation;
- Require any Council employee to produce cash, stores, or any other Council property under their control.

4.2.4 When any actual or suspected irregularity arises concerning cash, stores or other Council property, or any suspected irregularity in Council business, officers must immediately notify the Strategic Director of Finance and Customer Services and the Monitoring Officer who will investigate and report, as necessary. Where irregularities involve either Council Members or officers, the Chief Executive will be responsible for decisions to involve the police.

### **4.3 Audit of Unofficial Funds**

4.3.1 The Strategic Director of Finance and Customer Services will advise on the keeping and audit of unofficial funds, that is any funds associated with Council business, supervised, or managed by council officers, but not part of Council funds or Council trust funds, i.e., charities. Officers invited to act as Honorary Treasurers of unofficial funds must notify their line manager and the Strategic Director of Finance and Customer Services for approval before accepting the position.

4.3.2 The Strategic Director of Finance and Customer Services can require any officer holding unofficial funds to provide a true account in writing of all money and property in their charge, of all receipts and payments with vouchers and other records supporting the accounts, and a list of persons to or from whom money is due detailing amounts for each.

## **5. Control of Resources**

### **5.1 Security**

5.1.1 The Chief Executive, Strategic Directors and Heads of Service are responsible for the security of all buildings, stocks, stores, equipment, cash, documents, and other assets under their control. The Strategic Director of Finance and Customer Services must be consulted whenever security might be inadequate or special arrangements are needed.

- 5.1.2 Maximum limits for cash holdings must be agreed with the Strategic Director of Finance and Customer Services and cannot be exceeded without their permission, to manage risk and to prevent invalidating insurance cover.
- 5.1.3 Keys to safes, cash boxes, strong rooms and security systems must be always held by the officers responsible for them, and access kept restricted at all times . The loss of any such keys must be reported to the Strategic Director of Finance and Customer Services at once and no new keys cut without agreement from the Strategic Director of Finance and Customer Services.
- 5.1.4 The Head of Human Resources, Performance & Communication is responsible for the proper security and privacy of electronic data. The Chief Executive, Strategic Directors and Heads of Service are each responsible for ensuring compliance with Data Protection Act 2018 in their respective services, and for ensuring all staff are aware of their obligations under the Act.

## **5.2 Asset Registers and Inventories**

- 5.2.1 Strategic Directors or Heads of Service are responsible for setting up and maintaining an inventory of all items under their control with a replacement value of over £1000. Inventories must be kept up to date, in a form agreed with the Strategic Director of Finance and Customer Services.
- 5.2.2 Details of all purchases or disposals, including make and model, asset serial number if known, and approximate replacement value must be included on inventories at the time of purchase, sale or disposal and notified to the Strategic Director of Finance and Customer Services. In respect of any disposal, Strategic Directors or Heads of Service are required to ensure that the means of disposal achieves best value and all documentation is completed to effect the transfer of legal title and all risks to the buyer. All disposals must be in accordance with the Council's Disposal Policy.
- 5.2.3 Head of Human Resources, Performance & Communication is responsible for maintaining a central inventory of computer equipment.
- 5.2.4 Strategic Directors or Heads of Service are responsible for the care and custody of all equipment held in their respective services. Council property must not be removed or used except in the ordinary course of business, or in accordance with specific directions from the Strategic Director or Head of Service concerned.
- 5.2.5 The Strategic Director of Finance and Customer Services is responsible for the maintenance of a corporate register of the Council's fixed assets. This asset register must be maintained in accordance with the requirements of the CIPFA Code of Practice on Local Authority Accounting in the UK and any other underlying accounting standards.

## **5.3 Property Transactions**

5.3.1 In the course of its business, the Council may enter into a variety of property agreements, including (but not limited to):

- Freehold sales and purchases;
- Long leasehold disposals and acquisitions
- Short leases as tenant and as landlord;
- Section 106 and/or CIL agreements as landowner; [NB: This is about to change as the Government has published a White Paper on alternatives to S106 and CIL]
- Release of covenants;
- Compulsory acquisitions and land compensation claims;
  - Taking and granting easements;
  - Option Agreements;
  - Lease surrenders and exit agreements (including dilapidations).

5.3.2 The Head of Legal Services is authorised to undertake all actions in relation to the administration of the Council's estate and property portfolio **except** the following matters which are reserved to the Executive:

- (a) Acquisitions or disposal of land or property with a value in excess of £25,000;
- (b) the grant or renewal of all commercial leases in excess of 2 years that do not reflect market conditions in terms of value or risk;
- (c) the grant of all leases for the purposes of development or refurbishment schemes including building leases;
- (d) the grant or renewal of all leases where the Head of Legal Services considers referral to the Executive is appropriate

## **5.4 Leases**

5.4.1 The majority of leases are standard, non-controversial and meet the Council's policies and objectives. The granting or renewal of leases should only be referred to the Executive for decision if the lease is not a standard lease or is a controversial lease and will be subject to the above thresholds. Such thresholds are to be reviewed every 2 years. The Leader of the Council, under the allocation of portfolio holder responsibilities, has responsibility for the Council's Property Portfolio and is regularly updated in relation to the grant and renewal of leases.

## **5.5 Consumable Stocks and Stores**

5.5.1 Strategic Directors or Heads of Service will make adequate arrangements for the care and custody of consumable stocks and stores held by their services and will maintain inventory records that document the purchase and usage of these items.

- 5.5.2 The stock of such items should be maintained at an appropriate level and be subject to a regular physical check. Discrepancies must be investigated and pursued to a satisfactory conclusion.
- 5.5.3 The Strategic Directors or Head of Service must produce a stock certificate at each financial year end, confirming the number and value (i.e., value representing the lower of cost or net realisable value) of items held as at 31st March.
- 5.5.4 Stocks and stores must be removed from the Council's financial records when obsolete (i.e., when they cannot be sold or consumed) or when no longer held (i.e., due to theft or other loss). Thresholds for stock write-off are set out below:

<b>Value of stock write-off</b>	<b>Delegated to</b>	<b>Evidence required</b>
<b>Up to £4,999</b>	<b>Strategic Director of Finance and Customer Services or any other Executive Head</b>	<b>Completion of write-off form</b>
<b>£5,000 and over</b>	<b>Executive</b>	<b>Minute from meeting of the Executive</b>

## **5.6 5.6 Investments, Borrowing and Trust Funds**

- 5.6.1 All money in the hands of the Council is to be aggregated for the purposes of treasury management under the control of the Strategic Director of Finance and Customer Services.
- 5.6.2 This Council adopts the key recommendations of CIPFA's Treasury Management in the Public Services: Code of Practice (2017) (the Code).
- 5.6.3 The Council has created and will maintain:
- A treasury management policy statement, stating the policies and approach to risk management of its treasury management practices; and
  - Suitable treasury management practices (TMPs), setting out the way the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 5.6.4 The content of the policy statement and TMPs will follow the recommendations contained in the Code, subject only to amendment where necessary to reflect the particular circumstances of this Council. Such amendments will not result in the Council materially deviating from the Code's key recommendations.
- 5.6.5 The Council will receive reports on its treasury management policies from the Strategic Director of Finance and Customer Services, detailing practices and activities, and 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 its TMPs.



- 5.6.6 The Council delegates responsibility for the implementation its treasury management policies and practices to the Leader/Executive and for the execution and administration of treasury management decisions to the Strategic Director of Finance and Customer Services who will act in accordance with the Council's policy statement and TMPs and CIPFA's Standard of Professional Practice on Treasury Management.
- 5.6.7 The Council nominates the Audit and Standards Committee to be responsible for the effective scrutiny of the treasury management strategy and policies.
- 5.6.8 All negotiable instruments, financial bonds and securities held in the name of the Council, or its nominees must be held securely by the Strategic Director of Finance and Customer Services or the Council's bankers unless the Council has authorised the use of an outside agent.
- 5.6.9 In consultation with the Leader or relevant Portfolio Holder, the Strategic Director of Finance and Customer Services may engage external Investment Fund Managers to manage the authority's investments. The terms and conditions of any engagement will be determined by the Strategic Director of Finance and Customer Services and include a requirement that any such managers must report regularly to and attend review meetings with Council representatives.
- 5.6.10 All trust funds must, wherever possible, be in the Council's name and always comply with the requirements of the Charity Commissioners. Unless the trust deed states otherwise, officers and councillors (except when acting in a private capacity) acting as trustees must give all related securities etc. to the Strategic Director of Finance and Customer Services for safekeeping. (See section 4.3 above on the Audit of Unofficial Funds for general management guidance.)

## **5.7 Bank Accounts**

- 5.7.1 All arrangements with the Council's bankers must be made or approved by the Strategic Director of Finance and Customer Services, who is authorised to operate necessary banking, Credit and Purchasing Card Accounts and other banking arrangements, as well as providing any appropriate instruction or indemnity required by the Council's bankers.
- 5.7.2 All bank accounts must be in the name of Surrey Heath Borough Council. All payment forms and other debit and credit forms must be ordered by the Strategic Director of Finance and Customer Services, who must make proper arrangements for their security.
- 5.7.3 The Council does not make payment by cheque, other than on authorised imprest accounts.
- 5.7.4 All bank accounts must be reconciled to supporting records periodically in line with timetables and directions issued by the Strategic Director of Finance and Customer Services.

## **5.8 Petty Cash Accounts**

- 5.8.1 Wherever possible, corporate Purchas Cards should be used for low value transactions and where there are no mandated procurement contracts in place. However, in the limited circumstances when Purchase Cards cannot be used, the Strategic Director of Finance and Customer Services may provide petty cash accounts to meet minor expenditure on behalf of the Council.
- 5.8.2 The Strategic Director of Finance and Customer Services or Chief Accountant will:
- Prescribe rules for operating these accounts;
  - Determine the amount of each imprest account;
  - Instruct services to maintain a record of all transactions and cash advances made; and
  - Periodically review the arrangements for the safe custody and control of these advances.
- 5.8.3 Requests for additional funds to be transferred into petty cash accounts must be made to the Strategic Director of Finance and Customer Services. Arrangements for such transfers will be made by the Chief Accountant, following direction from the Strategic Director of Finance and Customer Services.
- 5.8.4 Employees operating an imprest account will:
- Obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained;
  - Make adequate arrangements for the safe custody of the account including access to the account;
  - Produce cash and all vouchers to the total value of the imprest amount. Record transactions promptly;
  - Reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder;
  - Ensure that the float 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; and
  - Provide the Strategic Director of Finance and Customer Services with a certificate of the value of the account held at 31 March each year.

## **5.9 Intellectual Property**

- 5.9.1 Intellectual property is a generic term that includes inventions and writing. It is a category of property that includes intangible creations of the human intellect. There are many types of intellectual property, and some countries recognize more than others. The most well-known types are copyrights, patents, and

trademarks. If an employee creates these during employment, then, generally, they belong to the employer, not the employee.

- 5.9.2 Strategic Directors or Heads of Service will ensure that their staff are not carrying out private work in Council time and that their staff are aware of the Council's rights regarding intellectual property. Instances of where intellectual property may be, or has been, created should be referred to the Head of Legal Services.

## **6. Income**

### **6.1 Income Collection Systems**

- 6.1.1 Effective income collection systems are necessary to ensure that all income due to the Council is identified, collected, receipted, and banked properly. Wherever possible, income should be collected in advance of supplying goods or services.
- 6.1.2 It is the responsibility of Strategic Directors or Heads of Service to ensure that staff authorised to act on their behalf in respect of income collection are clearly identified. These officers must supply the Finance Department with details relating to work done, goods supplied, services rendered or other amounts due, to enable invoices to be raised promptly for sums due to the Council, and to ensure that such amounts are properly recorded as due to the Council.

### **6.2 Charging Policies**

- 6.2.1 The Strategic Director of Finance and Customer Services will establish an income and charging policy for the supply of goods or services. This will be reviewed and approved periodically by the Executive.
- 6.2.2 Strategic Directors or Heads of Service must set annual discretionary fees and charges in consultation with the relevant Portfolio Holder and Strategic Director of Finance and Customer Services. An annual statement on fees and charges will be published on the Council's website as part of the budget setting process.
- 6.2.3 Any new charge or change that involves potentially sensitive issues must be agreed with the Chief Executive in consultation with the Leader.
- 6.2.4 One-off services may be undertaken, and associated charges set by the Chief Executive, Strategic Director or Head of Service concerned, subject to availability of resources and consideration of any sensitive issues by the Chief Executive in consultation with the Leader.

### **6.3 Income Collection**

6.3.1 The Strategic Director of Finance and Customer Services will agree the arrangements for the collection of all income due to the Council and approve the procedures, systems, and documentation for its collection.

6.3.2 In relation to the collection of income, Strategic Directors or Heads of Service will ensure that:

- All money received by, or on behalf of, the Council is paid fully and promptly into the appropriate Council bank account in the form in which it is received;
- Income is not used to cash personal cheques or other payments;
- Appropriate details are recorded onto paying-in slips to provide an audit trail;
- A record is kept of money received directly by employees of the Council;
- The receiving officer signs for the transfer of funds, and the transferor retains a copy;
- Wherever possible, at least two employees are present when post is opened so that money received by post is properly identified and recorded; this requirement must be met where post regularly contains money. If this requirement cannot be met, then arrangements must be reviewed by Internal Audit;
- Money collected and deposited is reconciled to the appropriate bank account on a regular basis;
- The responsibility for cash collection is separated from that for identifying the amount due and that responsibility for reconciling the amount due is separated from handling of the amount received;
- Income is only held on premises up to levels approved by the Strategic Director of Finance and Customer Services. All such income will be locked away to safeguard against loss or theft, and to ensure the security of cash handling;
- Any discrepancies between amounts deposited and amounts shown as received (actual vs expected income) are recorded and promptly investigated, with Internal Audit notified immediately of any amounts over £20. If not corrected, any shortfall must be made good at a later deposit at the discretion of the Strategic Director of Finance and Customer Services;
- All appropriate income documents are retained and stored for the defined period in accordance with the Council's document retention policy and schedule;
- The Strategic Director of Finance and Customer Services is advised of outstanding income relating to the previous financial year as soon as possible after 31 March, and in line with the timetable for closure of the accounts issued by the Finance Department.

#### **6.4 Income Collection – Sales**

6.4.1 The Council collects income directly from service users at several sites (e.g., Camberley Theatre / Windle Valley Centre). This is generally collected via cash tills or similar systems. It is important that accurate records are maintained for income collected in this way. Where direct sales are made to service users, Heads of Service must ensure that proper procedures for collection of income are in place:

- At the start of each session, the responsible officer must count the cash float and sign for its accuracy;
  - At the close of each session, income collected must be reconciled to records on the till or similar record. This should be signed off by the officer who has operated the till or similar system;
  - Where possible, two officers should be present whenever cash is counted;
  - In addition, any cash float remaining at the close of the session should be signed for by the officer working on the till; and
  - Bank paying-in slips must be reconciled to income collection records.
- 6.4.2 Where income is collected at one-off events at remote sites (such as open-air concerts or shows) the Strategic Director or Head of Service must ensure that arrangements are in place to enable income collected to be reconciled to a record of sales made. Internal Audit must be consulted to ensure arrangements are secure. Any cash collected should be counted in the presence of two officers where possible, and banked at the earliest opportunity. Appropriate security arrangements must also be made should cash collected need to be held overnight before it can be banked.
- 6.4.3 Officers must ensure that secure arrangements are in place for the storage of cash and cheques until they are banked. Cash should only be stored at Camberley Theatre or Surrey Heath House.

## **6.5 Debt Recovery**

- 6.5.1 Strategic Directors or Heads of Service will define which officers in their business unit may raise a debt on the Council's behalf.
- 6.5.2 Once debts are raised, Strategic Directors or Heads of Service have a responsibility to assist the Strategic Director of Finance and Customer Services in collecting the debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf. This will be done in accordance with the Council's Corporate Debt Management Policy.
- 6.5.3 The Strategic Director of Finance and Customer Services will provide regular reports to Executive Heads to enable them to pursue debts. Strategic Directors or Heads of Service must use this information to ensure that debts are followed up promptly. Debts must be followed up in line with timescales set out in Corporate Debt Management Policy.
- 6.5.4 Evidence of action to collect debts should be retained. This helps decision-making should debts require write-off by the Executive.

## **6.6 Debt Write-off and Release of Securities**

- 6.6.1 The Strategic Director of Finance and Customer Services will review outstanding debts on a regular basis and has discretion to take prompt action to write-off debts no longer deemed to be recoverable in law following consultation with the Leader, Portfolio Holder for Finance and Head of Legal

Services. A delegated decision notice must be published to record any decision to write off debt pursuant to this section 6.6.1 and reported to the Executive as soon as possible.

6.6.2 No *bona fide* debt may be cancelled, other than by formal write off. The approval required to write off any such debt is as follows:

<b>Value of Debt</b>	<b>Delegated to:</b>	<b>Evidence required</b>
<b>Up to £1,500</b>	<b>Strategic Director of Finance and Customer Services and Head of Service</b>	<b>Authorised debt write-off form</b>
<b>£1,500 and over</b>	<b>Executive</b>	<b>Minute from meeting of Executive</b>

The appropriate accounting adjustments must be made following approval to write-off a debt.

6.6.3 No officer may release any security, warranty, or guarantee in favour of the Council, unless contractually obliged to do so, without the written approval of the Strategic Director of Finance and Customer Services or the Executive as appropriate.

## **6.7 Credit Notes**

6.7.1 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, and not to write-off a debt that is deemed to be uncollectable.

6.7.2 Credit notes can only be raised by officers in line with limits set out in authorised signatory schedules. Appropriate documentation must be retained to confirm reason for the credit note and to show it has been properly authorised.

6.7.3 All credit notes must be authorised by an appropriate budget holder who is a designatory authorised signatory for credit notes. Strategic Director of Finance and Customer Services.

## **6.8 Sponsorship and Contributions in Kind**

6.8.1 Offers of sponsorship, or contributions in kind from outside organisations with a total value of less than £1,000 may be arranged and agreed by the Strategic Director or Head of Service concerned after consultation with the Chief Executive and the Leader, or appropriate Portfolio Holder. Sponsorship of less than £1,000 will be reported to the Leader and Executive twice yearly.

6.8.2 Offers of sponsorship or contributions in kind from outside organisations with a total value of over £1,000 must be approved by the Leader or Executive. All arrangements for sponsorship must comply with the Code of Conduct for Officers. The Monitoring Officer will maintain a list of all sponsorship arrangements.

## 6.9 Grants and Other Income

6.9.1 Any income received by the Council which is not included within the annual budget and arising from, for example, grants, windfalls, or gifts must be notified to the Strategic Director of Finance and Customer Services as soon as it is identified. Authorisation for the use of this income must be obtained from:

Value of income	Delegation
Less than £1,000	Strategic Director of Finance and Customer Services
£1,000 to £9,999	Chief Executive in consultation with the Leader
£10,000 and over	Executive

6.9.2 Strategic Directors or Heads of Service must, as appropriate, ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts. This will include ensuring that claims for funding are made by the due date, and in accordance with the funding conditions.

6.9.3 Strategic Directors or Heads of Service must be clear as to any conditions attached to grants and other income from third parties and ensure systems are put in place to demonstrate compliance with these conditions. This should include systems to ensure grants are spent within the correct time period.

6.9.4 Strategic Directors or Heads of Service must satisfy audit requirements in respect of external funding claims. This includes maintaining appropriate records that accord with the funding conditions and making these available to the auditors as required.

## 7. Orders and Payments

### 7.1 Orders

7.1.1 Public money must be spent with demonstrable probity and in accordance with the Council's policies.

7.1.2 Officers involved with engaging contractors, and/or with purchasing decisions, have a responsibility to declare:

- Any links or personal interests that they may have with purchasers, suppliers and/or contractors; and
- Any gifts or hospitality offered by, or received from, purchasers, suppliers and/or contractors.

7.1.3 All works, goods and services must be ordered in accordance with the Council's Contract Standing Orders and Procurement Guidance. All officers involved in placing orders with third parties must be familiar with these documents.

7.1.4 Current thresholds for orders of goods and services from third parties are set out below:

<b>Total value (including VAT)</b>	<b>Procedure</b>
<b>Up to £4,999</b>	<b>At least one written quote in writing and in advance</b>
<b>£5,000 to £49,999</b>	<b>At least three written quotes in writing and in advance</b>
<b>£50,000 and over</b>	<b>The responsible officer must contact the relevant responsible officer for guidance; A contract number is required; At least three written tenders in advance; Due attention must be given to national procurement rules regarding the value of the contract</b>

## **7.2 Ordering Works, Goods and Services**

7.2.1 Official orders must only be raised, in advance of the supply of goods or services, on the Council's purchasing system by officers with appropriate system access. Orders for work, goods and services must:

- Be approved by an appropriate authorised signatory;
- Entered on the purchasing system with details of the nature and quantity of work, goods or services required, the relevant contract, expenditure code and agreed or estimated price;
- Apply the appropriate VAT rate; and
- Be coded to an appropriate cost centre with adequate budgetary provision.

7.2.2 The authoriser of an order must be satisfied that:

- The works, goods and services ordered are appropriate and needed; (ii) There is adequate budgetary provision; and
- Quotations or tenders have been obtained, if necessary, in accordance with the Contract Standing Orders and Procurement Guidelines.

7.2.3 The purchase order must be properly reviewed by the authorising officer. By approving the purchase order, the authorising officer is confirming that the order has been let in line with Contract Standing Orders and Procurement Guidelines.



7.2.4 Authorised purchase orders should be sent to the supplier to ensure details of the goods or services expected from the supplier are clearly set out.

7.2.5 Purchase orders must be raised on the purchasing system for all work goods or services to be supplied to the Council. The only exceptions are:

- Supply of public utilities;
- Periodic payments such as rent or rates;
- Suppliers registered under HMRC's Construction Industry Scheme; or
- Other items approved by the Strategic Director of Finance and Customer Services.

In these cases, approval to place orders without purchase orders must be obtained from the Strategic Director of Finance and Customer Services.

### **7.3 Receipt of Works, Goods and Services**

7.3.1 Works, goods and services must be checked upon receipt to ensure they have been delivered in accordance with the order. The supplier should be contacted if there are any discrepancies between orders and the goods or services received.

7.3.2 Details of goods and services received should be recorded by staff with appropriate access on the Council's purchasing system, using the goods receipting function. Where possible, information to support goods received notes, such as delivery notes or timesheets, should be stored on the purchasing system.

7.3.3 Where approval has been obtained to purchase from a supplier without using the Council's purchasing system, then the Strategic Directors or Heads of Service must ensure that proper records are retained to show that goods or services ordered have been delivered by the supplier.

7.3.4 The Council will not pay suppliers in advance for goods or services. This is to avoid circumstances where monies are paid out, but suppliers fail to deliver goods or services that have been paid for. If a supplier insists on payment in advance of receipt of goods, then the procuring officer should consider using a different supplier. Exceptions to this are:

- Rent or rates, where payment in advance is contractually due;
- Software licences and software upgrades where payment in advance is contractually due;
- Course or conference bookings where advance payment is required to secure a booking;
- Other circumstances where written approval for payment in advance of receipt of goods or services has been obtained from the Strategic Director of Finance and Customer Services.

### **7.4 Setting Up New Suppliers and Changes to Supplier Details**

- 7.4.1 Officers must ensure the validity of supplier information when sourcing goods or services from new suppliers or changing details of existing suppliers. This is to reduce the risk of fraud.
- 7.4.2 The procuring officer must confirm key information such as business address, VAT number, and bank account details by email or telephone, and enter details of how these have been confirmed before any new supplier or changes to existing supplier details changes will be accepted and actioned by the Finance Department.

## **7.5 Payment of Accounts**

- 7.5.1 The normal method of paying sums due from the Council is BACS. Separate arrangements are in place for payments using Purchase Cards (see paragraph 7.10). Payments by other methods may only be used at the discretion of the Strategic Director of Finance and Customer Services.
- 7.5.2 All invoices received by officers must be forwarded to the Finance Department as soon as they are received to ensure that the Council meets prompt payment performance targets. Invoices are stored electronically on the Council's finance system. Hard copy invoices are not retained.
- 7.5.3 Officers must ensure that suppliers send proper VAT invoices to the Council when seeking payment. The Council will not pay against statements issued by suppliers as this increases the risk of duplicate payments.
- 7.5.4 All invoices must include a purchase order number, where applicable. Failure to include this information will mean the invoice is returned to the supplier.
- 7.5.5 Certification of invoices for payment may only be carried out by officers with an appropriate authorised signatory limit for invoice authorisation (see paragraph 12). Before certifying an invoice for payment, a signatory must be satisfied that:
- The works, goods or services have been satisfactorily received;
  - The sum due for payment is properly incurred and covered by approved budgets;
  - The invoice is not in dispute;
  - The invoice has not been previously paid;
  - The prices, extensions, calculations, trade discounts, other allowances, credits, and treatment for VAT are correct.
- 7.5.6 All invoices will be scanned into the Council's finance system once they have been received by the Finance Department. At this point a "for invoice authorisation" email will be generated by the Council's finance system and sent to an appropriate authorised signatory.
- 7.5.7 Within 7 days of receipt of the email, the authorised signatory must, on completion of the checks set out in paragraph 7.5.5 above, authorise the invoice as ready for payment on the Council's finance system. If this is not possible, an alternative authorised signatory should complete this work.

## **7.6 Payment of Accounts – Invoices Without Purchase Orders**

- 7.6.1 Where invoices are received for suppliers where no purchase order has been raised (see paragraph 7.2.4) then a BACS voucher form will need to be completed by the Service Department.
- 7.6.2 This will be scanned into the finance system and a “request for invoice authorisation” email generated by the Council’s finance system and sent to an appropriate authorised signatory. The process at paragraph 7.5.6 must then be followed.
- 7.6.3 In exceptional circumstances, the Strategic Director of Finance and Customer Services may authorise a payment where no invoice has been received. In these circumstances a BACS voucher must be completed by an appropriate authorised signatory to confirm that:
- The work, goods, services, refunds, rebates, or other commitments have been properly received or will be received or accounted for; and
  - The sum due for payment is provided for in approved budgets.

## **7.7 Financial Year-end**

- 7.7.1 As soon as possible after 31st March, and no later than a date in April set by the Strategic Director of Finance and Customer Services each year, the Chief Executive, Strategic Directors and Heads of Service must each notify the Strategic Director of Finance and Customer Services of all outstanding revenue expenditure for the previous financial year relating to works, goods or services ordered and supplied during that year.
- 7.7.2 By 31st March each year, the Chief Executive, Strategic Directors and Heads of Service must ensure that all capital expenditure occurring in that year has been properly certified and passed for payment. No account may be taken of expenditure in the year incurred by contractors but not certified or paid by the Council.

## **7.8 Loans and Advances**

- 7.8.1 Only the Chief Executive (or a properly authorised officer) is responsible for raising and certifying requisitions for making approved loans and advances.

## **7.9 Payments Relating to Purchase of Land and Property**

- 7.9.1 Accounts for payments relating to purchase of land or property must be supported by details of the land or property including location, the vendor’s name, the purchase price, and all associated expenses, and be certified by the Chief Executive (or a properly authorised officer).

## **7.10 Corporate Purchase Cards**

7.10.1 The Strategic Director of Finance and Customer Services may allocate corporate Purchase cards to nominated officers on completion of an application form signed by the appropriate Strategic Director or Head of Service.

7.10.2 All officers allocated corporate Purchase Cards must follow guidance on how to use these cards and account for expenditure incurred as set out in the Purchase Card guidance notes, issued to officers by the Finance Department.

7.10.3 Corporate Purchase Cards and PIN numbers are personal to the cardholder and may not be used by other officers. Corporate Purchase Cards may not be used to:

- Obtain cash advances;
- For personal purchases;
- To buy goods and services with a value in excess of £1,000 (unless expressly authorised with a higher limit at card issue); or
- To buy goods and services covered by a contract.

7.10.4 Details of expenditure incurred on corporate Purchase Cards will be included in the spend data that the Council publishes to comply with the requirements of the Transparency Code 2015. Officers must consider the impact of this information when using corporate Purchase Cards.

7.10.5 For any Officer that holds a Purchase Card and due to leave the Council, the Purchase Card must be returned to the Finance Department prior to the Officer's last day of service.

## **8. Contracting**

### **8.1 Financial Appraisals and Insurance**

8.1.1 The Chief Executive, Strategic Director of Finance and Customer Services, Strategic Director or Head of Service concerned must be satisfied that the tenderer is able to fulfil a contract satisfactorily before any contract is entered into. The Strategic Director of Finance and Customer Services must verify the financial status of tenderers for contracts over £50,000, and for any other contract where such a check is considered necessary. A financial appraisal should also be undertaken before any contract is extended or negotiated for an additional period.

8.1.2 The Strategic Director or Head of Service must supply relevant insurance details to the Strategic Director of Finance and Customer Services (who will advise on necessary limits) for all contracts with an anticipated spend in excess of £50,000. Insurance documentation must be obtained for all contracts valued at £50,000 or over, although it is considered best practice that contract officers should request and obtain insurance details from suppliers for all contracts over £5,000.

## **8.2 Contract Management and Payment of Contractors**

- 8.2.1 For each contract, the Chief Executive, Strategic Director or Head of Service must nominate a contract manager who will be responsible for complying with Standing Orders and Guidelines, properly maintaining all contract documentation, obtaining all necessary sub-contractor tax certificates, and forwarding them to the Strategic Director of Finance and Customer Services before payment is made.
- 8.2.2 A register of all contracts over £50,000, known as the Contracts Register, and all other contracts under seal, must be maintained and kept updated by the responsible officer. The register must record all payments and show the state of account on each contract between the Council and its contractors together with any other payments and related professional fees. (Contracts based on schedules of rates and for which individual job orders are placed are exempted from this Regulation.) Officers should notify the responsible officer of any such contract details in excess of £50,000 as above using the *pro forma* on-line form found on the intranet.
- 8.2.3 Where contracts of £50,000 or less are placed on official orders or other schedule of rates tenders allow for payment by instalments, the relevant Contract Manager must keep a record to show the state of account for each contract together with any other payments and related professional fees, in a form approved by the Strategic Director of Finance and Customer Services. Contracts of £5,000 or less must not be paid by instalment.
- 8.2.4 Purchase orders must be raised on the Council's purchasing system for all contracts entered into by the Council. Payment of contractors will be made following the process set out at paragraph 7.5 above.

## **8.3 Purchase of IT equipment**

- 8.3.1 In accordance with the Council's Information Security Policy, ICT Equipment must always be purchased, tagged, and installed by the ICT Team. This is to ensure assets are adequately insured, authorised, and properly logged.

## **9. Salaries, Wages, Pensions and Expenses**

### **9.1 Salaries, Wages and Pensions**

- 9.1.1 Head of Human Resources, Performance & Communication pays salaries, wages, pensions, compensations etc. to all employees or former employees of the Council, under arrangements approved and controlled by the Strategic Director of Finance and Customer Services.
- 9.1.2 The Chief Executive, Strategic Director or Head of Service concerned must notify the Head of Human Resources, Performance & Communication who will in turn notify the Strategic Director of Finance and Customer Services as soon as possible of anything affecting such payments, particularly:

- Appointments, resignations, dismissals, retirements, redundancies, deaths, suspensions, secondments, and transfers;
- Absence from duty due to sickness, maternity, compassionate or unpaid leave;
- Changes in remuneration for employees on Surrey Heath Borough Council conditions of contract;
- Changes in remuneration apart from normal increments, pay awards and agreements affecting all other employees;
- Information necessary to maintain records of service for superannuation, income tax, national insurance, and similar matters.

9.1.3 All employees will be appointed in accordance with the Regulations of the Council and the approved establishments, grades, and rates of pay.

9.1.4 All time records or other pay documents must be in a form set or approved by the Executive Head of Transformation. Line managers are responsible for approving officer timesheets, as necessary.

## **9.2 Travel, subsistence, and other allowances**

9.2.1 The Strategic Director of Finance and Customer Services is responsible for the payment of expense claims by staff in accordance with the Council's travel and subsistence policy. Mileage claims and parking fees are the responsibility of Head of Human Resources, Performance & Communication and are paid through iTrent, the HR/payroll system.

These officers will:

- Make arrangements for paying all authorised travel and subsistence claims; and
- Ensure that taxable allowances and benefits are accounted for, recorded, and submitted, where appropriate, to HM Revenue and Customs.

9.2.2 Certification of travel and subsistence claims means that journeys were authorised, and expenses properly and necessarily incurred for business purposes, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved.

9.2.3 All claims for payment of officers' car allowances, subsistence allowances, travelling and incidental expenses incurred on official duty must be properly certified by an authorised officer and submitted to Payroll or Finance as appropriate on the approved form available on the Council's intranet or through iTrent. The signatory must ensure that proper documentation to support mileage and other items claimed has been supplied by the claimant.

9.2.4 All claims for the payment of work or qualification training and course expenses (provided prior approval for the course has already been granted), including related subsistence and travel expenses, must be signed off by an authorised signatory in the same service. The claim should be submitted to Human Resources for certification. Claims for conference expenses must be

signed by a properly authorised officer and submitted to the Strategic Director of Finance and Customer Services.

- 9.2.5 Payments to members, including co-opted members of the Council or its committees must be made by the Head of Legal and Democratic Services on receipt of the properly completed claim form.
- 9.2.6 Certification by or on behalf of the Chief Executive, Strategic Director or Head of Service means that the certifying officer is satisfied the journeys were authorised, expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

### **9.3 Ex-Gratia Payments**

- 9.3.1 Ex-gratia payments are one-off payments made to an employee or former employee as a gesture of goodwill, and not because there is a legal or contractual obligation to do so. They include settlement agreements and other payments made for loss of office.
- 9.3.2 All ex-gratia payments made to staff below Head of Service level must be approved by the Chief Executive, after consultation with the Strategic Director of Finance and Customer Services and the Head of Human Resources, Performance & Communication.
- 9.3.3 All ex-gratia payments made to the Chief Executive, Strategic Directors, or Heads of Service must be approved by the Employment Committee, unless the decision is reserved to the Full Council.
- 9.3.4 Any ex-gratia payments to the Chief Executive, another Statutory Officer, or the Head of Human Resources, Performance & Communication, as agreed by the Employment Committee or Full Council, must be authorised by two of the three Statutory Officers: the Chief Executive, the Monitoring Officer, or the Strategic Director of Finance and Customer Services. In the absence of these officers, the Deputy Monitoring Officer or Deputy Section 151 Officer can authorise these payments. An officer must not authorise a payment to themselves.
- 9.3.5 Any ex-gratia payments to Strategic Directors or Heads of Service, excluding Statutory Officers and the Head of Human Resources, Performance & Communication, as agreed by the Employment Committee, must be authorised by the Head of Human Resources, Performance & Communication and one of the Statutory Officers.

## **10. Taxation**

### **10.1 Compliance with Tax Regulations**

- 10.1.1 The Strategic Director of Finance and Customer Services is responsible for ensuring compliance with all relevant taxation regulations and guidance that

affect the Council either directly, because of its own activities, or indirectly, because of service delivery through external partners.

10.1.2 To enable The Strategic Director of Finance and Customer Services to fulfil the requirements of this role, Strategic Directors and Heads of Service will ensure that the Strategic Director of Finance and Customer Services is consulted on all proposals that may alter or affect the Council's tax liability.

10.1.3 Certifying officers must confirm that all suppliers of goods, works or services have complied with VAT legislation and have correctly completed payment documentation in accordance with instructions issued by HMRC.

10.1.4 The Strategic Director of Finance and Customer Services will maintain the Council's tax records, make all tax payments, receive tax credits, and submit tax returns by their due date, as appropriate.

## **11. Transparency and Partnerships**

11.1.1 To provide transparency in its stewardship of public funds the Council will make information available to the public in relation to its spending, regardless of value. Monthly payment transactions made via corporate Purchase Cards, employee expenses and accounts payable are available to be viewed or downloaded via the Council's website.

11.1.2 11.2.1 The Chief Executive, Strategic Directors and Heads of Service may enter into partnerships and similar joint undertakings on behalf of the authority, subject to consideration and approval by Corporate Management Team and the Leader/Executive. Partnership transactions must comply with these Financial Regulations and Procedure Rules, unless otherwise specified by the partnership and agreed by the Strategic Director of Finance and Customer Services.

## **12. Authorised Signatories**

### **12.1 Powers Delegated to Officers**

12.1.1 Under the Scheme of Delegation of Functions to Officers in the Constitution of the Council, authority to undertake financial transactions is delegated to senior managers and certain nominated officers. However, delegation to other officers may be necessary for practical purposes. These delegations form lines of accountability that must be clear, well communicated and regularly reviewed. They will provide control through appropriate levels of authorisation, limited numbers, and the proper separation of duties.

12.1.2 Delegations within services must be arranged under agreed procedures for authorised signatories. Strategic Directors or Heads of Service must supply the Strategic Director of Finance and Customer Services with the following information on the standard form found on the Council's intranet:

- The name and job title of the officer;
- The delegated financial limits to be applied to the officer; and



- A specimen signature from the officer, countersigned by the Head of Service.

Any changes to authorised signatory limits within a service must be advised in the same way.

12.1.3 Internal Audit will process new and amendments to existing signatory powers as well as maintain records of officers authorised to make financial transactions. Existing signatory powers are published on the Council's intranet and are reviewed periodically.

12.1.4 By exception signatory powers may be temporarily increased as a one-off in order to meet a genuine business need and where they are time critical. Such changes must be approved in writing in advance by the Chief Executive or the Section 151 Officer Strategic Director and should be notified to Internal Audit so that the appropriate records can be amended and to provide an audit trail. Changes must be on a short term basis and the officer's signatory powers reverted back to their substantive levels as soon as they are no longer required.

12.1.5 Any suspected breaches of authorised signatory limits should be reported immediately to Internal Audit. Breaches of agreed limits may be subject to internal audit review and may result in disciplinary action.

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# **PART 4 – PROCEDURAL RULES**

## **SECTION I**

### **CONTRACT STANDING ORDERS**

#### **1. Introduction – Purpose of the Contract Standing Orders**

- 1.1 Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contract Standing Orders is to provide a structure within which purchasing decisions are made and implemented and which ensure that the Council:
- a) Furthers its corporate objectives
  - b) Uses its resources efficiently
  - c) Purchases quality goods, services and works
  - d) Safeguards its reputation from any implication of dishonesty or corruption.
- 1.2 Purchasing by the Council, from planning to delivery, shall incorporate (where appropriate) principles of sustainability, efficiency, whole life costing and cost savings.
- 1.3 These Contract Standing Orders are made in accordance with the requirements of Section 135 of the Local Government Act 1972.
- 1.4 These Contract Standing Orders do not provide guidelines on what is the best way to purchase works, supplies (goods) and services. They set out minimum requirements to be followed. Further information and guidelines are set out in the Council’s Purchasing Guide that accompanies this document.
- 1.5 References to “Regulations” means the Public Contracts Regulations 2015 and references to the “Transparency Code” mean the Transparency Code 2015.

#### **2. General Principles – Application and Compliance with Contract Standing Orders**

- 2.1 These Contract Standing Orders apply to the purchase by or on behalf of the Council of works, supplies (goods) and services. Concession contracts must follow the requirements under the Concession Contracts Regulations 2016 and the Transparency Code. Identifying and awarding concession contracts are uncommon and Responsible Officers should take advice from legal services.
- 2.2 These Contract Standing Orders apply to all contracts including all purchase orders and contractual arrangements entered into by or on behalf of the

Council, except for the specific types of contracts and purchasing methods which are listed in 2.3.

2.3 These Contract Standing Orders do not apply to:

- a) Employment contracts
- b) Contracts relating solely to the purchase or sale of interests in land
- c) Contracts for retention of legal counsel and the appointment of expert witnesses in legal proceedings
- d) Service level agreements setting out the conditions which the Council applies to its funding of particular voluntary sector bodies.
- e) Post Entry Training Schemes
- f) When for technical or artistic reasons connected with the protections of exclusive rights the goods services or works may be provided by only a particular service provider
- g) Contract modifications permitted by law under section 72 of the Public Contracts Regulations 2015.
- h) Contracts providing for the delegation of the Council's functions.
- i) Contracts providing for cooperation between the Council and other public sector bodies where the structure of cooperation is exempt from the Public Contracts Regulations 2015 and any other applicable laws.
- j) Contracts awarded under a framework agreement or dynamic purchasing system. Responsible Officers must follow the rules and requirements of using frameworks or dynamic purchasing systems.

### **3. General Principles Applying to All Contracts**

3.1 There should be written evidence of all purchases.

3.2 Standard contract clauses shall be used in all contracts of a value of £5,000 or more. The standard contract clauses can be provided by Legal Services and may also be available on the Intranet. Contracts may be awarded based on a supplier's standard terms of conditions subject to any modifications requested by legal services.

3.3 Each contract shall include standard clauses, or those indicated where applicable dependent on the nature of the contract, on

- Anti-Fraud and Corruption
- Prevention of Assignment
- Equal Opportunities
- Health and Safety
- Freedom of Information Act 2000
- TUPE and workforce matters as applicable
- Child Protection and Safeguarding Children where applicable
- Liquidated Damages where applicable
- Protocol for performance data sharing by contractors where applicable.

3.4 As a minimum, all contracts of a value of £5,000 or more shall include clauses which set out:

- a) The works, supplies (goods), services, material, matters or things to be carried out or supplied
- b) The time within which the contract is to be performed
- c) Mechanisms for variation and extension
- d) Clarity on the balance of risk
- e) Clear payment mechanism and price schedule or clause.
- f) Quality requirements and/or standards which must be met
- g) Requirements on the contractor to hold and maintain appropriate insurances
- h) What happens in the event that the contractor fails to comply with its contractual obligations (in whole or in part)
- i) Requirements on the contractor to comply with all relevant equalities and health and safety legislation
- j) That the Council shall be entitled to cancel the contract and recover losses in the event that the contractor does anything improper to influence the Council to give the contractor any contract or commits an offences under the Bribery Act 2010, Modern Slavery Act 2015 or s117(2) Local Government Act 1972.

3.5 Written contracts shall not include non-commercial terms unless these are necessary to achieve best value for the Council. In this context, “non-commercial” means requirements unrelated to the actual performance of the contract. A more detailed list of non commercial consideration is contained in section 17 of the Local Government Act 1988.

3.6 All contracts shall include relevant specifications and/or briefs/technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability and efficiency (as appropriate) and the information set out in the Council’s Purchasing Guide.

3.7 All contracts of a value of £50,000 or more or which involve a substantial risk to the Council must be subject to a written risk assessment, which should be kept on the contract file held by the responsible officer.

#### **4. Regulatory Context**

4.1 All purchasing shall be conducted in accordance with Regulatory Provisions which are:

- a) All relevant statutory provisions
- b) Relevant Statutory guidance
- c) Any EU Rules and EC Treaty Principles which are adopted and reflected in UK legislation.
- d) The Council’s Constitution including these Contract Standing Orders, the Council’s Financial Procedure Rules and Scheme of Delegation

e) The Council's Purchasing Guide and other policies and procedures of the Council as appropriate.

4.2 In the event of conflict between the above, the UK Legislation will take precedence, followed by Statutory guidance, then the Council's Constitution, the Council's Purchasing Guide and guidelines, policies and procedures.

## **5. Responsibilities of Strategic Directors, Head of Service, Budget Managers and Responsible Officers**

5.1 Each Strategic Director and Head of Service shall have overall responsibility for the purchasing undertaken by his/her Service and take immediate action in the event of breach of these Contract Standing Orders

5.2 Each Budget Manager shall be responsible for the purchasing undertaken by his or her area and shall be:

- a) accountable to the relevant Strategic Director or Head of Service for the performance of his/her duties in relation to purchasing
- b) comply with the Council's decision making processes and scheme of delegation
- c) the authorised signatory within the scheme of delegation or by sub-delegation

5.3 A Responsible Officer is an officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services on behalf of the Council.

5.4 A Responsible Officer's duties in respect of purchasing are to ensure:

- a) compliance with all Regulatory Provisions and integrity of the tender process
- b) compliance with the relevant statutory provisions and the Council's requirements relating to declarations of interest affecting any purchasing process
- c) that there is an appropriate analysis of the requirement, timescales, procedure and documentation to be used
- d) the purchasing process, from planning to delivery incorporates (where appropriate) principles of sustainability, efficiency, whole life costing and cost savings
- e) compliance with the Council's decision making processes
- f) that all contracts of a value of £5,000 or more are included on the Council's Contract Register after contract signing/sealing
- g) that proper records of all contract award procedures, waivers, exemptions and extensions are maintained, with separate files for each purchase of a value of £5,000 or more
- h) that value for money is achieved
- i) that adequate and appropriate security (such as a bond or guarantee) is taken to protect the Council in the event of non-performance.

- j) Contract award notices are published for all contracts of a value greater than £25,000 and for all contracts awarded pursuant to framework agreements or dynamic purchasing systems regardless of value.
- k) For all contracts over £5,000, that new suppliers can demonstrate satisfactory trading history with reference to accounts or references from previous employers.

5.5 In considering how best to procure works, supplies and services, Strategic Directors, Heads of Service, Budget Managers and/or Responsible Officers (as appropriate in the context), shall take into account wider contractual delivery opportunities and purchasing methods such as the use of Framework agreements, joint procurement with other authorities and e-procurement methods, and the availability of local authority charging and trading powers under the Local Government Act 2003.

5.6 It is a disciplinary offence to fail to comply with these Contract Standing Orders and the Council's Purchasing Guide. All employees have a duty to report breaches of Contract Standing Orders to the Section 151 Officer or the Monitoring Officer.

5.7 It is the responsibility of every officer or member engaged in awarding and assessing contracts and tenders to ensure that they have no potential conflict of interest with any of the potential tenderers for contracts with the Council. This includes any interests by their close associates or family members. If officers or members become aware of any such conflict of interest they should draw the matter to the attention of the Monitoring Officer immediately who will then decide whether the interest is prejudicial or not. Failure to declare an interest would be considered a disciplinary offence. If you are in any doubt about a potential conflict of interest speak to the Monitoring Officer first.

5.8 Any officer or Member who suspects any misconduct or corruption in relation to the purchase by or on behalf of the Council of works, supplies (goods) and services must refer to the Council's Whistleblowing Code which can be found on the intranet and follow the guidance contained within.

## **6. Scheme of Delegation**

6.1 Council purchasing may only be undertaken by officers with the appropriate delegated authority to carry out such tasks as set out in the Council's Scheme of Delegation. Officers with delegated authority may only delegate to other officers who have the appropriate skills and knowledge for the task and such delegation shall be recorded in writing by the officer delegating the task and notified to the relevant Strategic Director and Head of Service..

6.2 Each Strategic Director and Head of Service shall inform officers, where appropriate, of the extent of any delegated authority and applicable financial thresholds.

## **7. Financial Thresholds, Key Decisions and Procedures**

- 7.1 The table below sets out the general rules applying to the choice of purchasing procedure for contracts at the stated threshold values.
- 7.2 There is a general presumption in favour of competition. Wherever possible contract opportunities over £5,000 should be advertised by way of a public notice using the Council's contract portal.
- 7.3 The public notice referred to at 7.2 will usually be via the Council's electronic tendering portal but it may also be appropriate to advertise on the Council's or other websites or in the press and/or trade publications.
- 7.4 The award of any contract which is a key decision is also an Executive function. Strategic Directors and Heads of Service are authorised to award contracts that are not key decisions.

**8. Table setting out financial thresholds and procedures**

<b>Total Value £</b>	<b>Type of Contract</b>	<b>Procedure to be used</b>
Up to £4,999	Works, supplies and services	At least one quote in advance
£5,000 to £49,999	Works, supplies and services	Contract Number required At least 3 written quotes requested in advance
Over £50,000*	Works, supplies and services	Contract Number required At least 3 written tenders received and processed through the Council's tender portal. Key decisions are contracts with a total value of more than £100,000 or for any contract for a terms of years with a value greater than £25,000 per annum and total contract value over £100,000 exclusive of indexation. The mean average to be used where annual payments are uneven.

- 8.1 Where contracts are of a type and value that mean the Public Contracts Regulations 2015 apply care must be taken to ensure that the correct and most appropriate procedure is used and assistance on the choice and use of procedure should be sought from Procurement.
- 8.2 The Council has determined that any decision which involves income or expenditure over £100,000 (or £100 million if it relates to treasury management matters) or greater than £25,000 per annum for a contract with a



term of years and total contract value over £100,000 is a key decision. Therefore a decision by the Leader/Executive to commit the Council to expenditure (e.g. to agree to enter a contract or delegate such authority to an officer) of £100,000 or more or more than £25,000 per annum over the whole length of the contract (including any options to extend) is a key decision and the steps set out in the Access to Information Procedure Rules (Part 4, Section F of the Constitution) must be followed. Notice of the intention to take a key decision must be published in the Schedule of Key Decisions at least 28 clear days before that decision is taken.

- 8.3 A key decision taken by an officer or any decision (regardless of the amount of the contract) taken by the Leader/Executive cannot be implemented until the end of the call-in period or the scrutiny of that decision has been completed (as set out in the Leader and Executive Procedure Rules (Part 4, Section B of the Constitution refers). Accordingly, in determining a timetable for the commencement of any contract, officers should take in account provision for scrutiny.
- 8.4 Regarding any process to request quotes, Responsible Officers must ensure that they consider the best means to access the widest market for works, goods or services. Officers should also be mindful to be as inclusive as possible when requesting quotes and this may be achieved by requesting more than 3 quotes and rotating between suppliers for subsequent procurements. Responsible Officers must also be mindful on how they can promote the inclusion of local suppliers in all procurements to enhance social value and achieve best value.

## **9. Financial Thresholds and Processes Applying to Approval and Execution of Contracts**

- 9.1 For contracts over the relevant threshold in the Public Contracts Regulations 2015 (in force at the time), you must consult with procurement and legal at the earliest opportunity and in any event before deciding on the purchasing procedure or going to advert.
- 9.2 When a decision is made to award a contract then the Responsible Officer must, in addition to complying with his/her general obligations under these Contract Standing Orders ensure, in particular, that:
- a) the appropriate approvals have been obtained to authorise that decision; and
  - b) where appropriate, a standstill period complying with the Rules in the Regulations is incorporated into the final award process.
- 9.3 Any contracts valued at £50,000 or above may be executed as a deed under the Council's common seal. Officers authorised to seal contracts may determine whether or not it is appropriate to execute contracts under the Council's common seal. For example, for construction contracts such officers may consider a 12 year limitation period (*as opposed to the standard 6 year period*) is beneficial to cover latent defects. This benefit is only available if

contracts are sealed. Officers with appropriate delegated authority may sign contracts which are not required to be sealed. .

## **10. Calculating the Contract Value**

- 10.1 The starting point for calculating the contract value for the purposes of these Contract Standing Orders is that the contract value shall be the genuine pre-estimate of the value of the entire contract excluding Value Added Tax. This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (including proposed extensions, options and any ongoing revenue costs).
- 10.2 There shall be no artificial splitting of a contract to avoid the application of the provisions of the Regulations and/or these Contract Standing Orders.
- 10.3 Where Responsible Officers are considering repeat orders with a particular contractor, they must ensure that the cumulative value of the contract remains below the threshold used for the original contract award. If it is likely that the cumulative value of the contract would exceed such threshold, Responsible Officers should seek advice from legal or procurement on the options to ensure compliance with these Contract Standings Orders and Regulations.

## **11. Principles Underlying Tendering Processes and Tender Evaluation**

- 11.1 All tendering procedures (including obtaining quotes), from planning to contract award and signature, shall be undertaken in a manner so as to ensure:
  - a) Sufficient time is given to plan and run the process
  - b) Equal opportunity and equal treatment
  - c) Openness and transparency
  - d) Probity
  - e) Outcomes that deliver sustainability, efficiency and cost savings (where appropriate).

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

- 12.1 An Invitation to Tender shall be issued by the Council for all contracts over £50,000 and tenders shall be submitted in accordance with the requirements of the Invitation to Tender.
- 12.2 It is a requirement that all tenders over £50,000 shall use the Council's electronic tendering portal unless the portal is not available.
- 12.3 If the portal cannot be used then all tenders received shall be:
  - a) addressed to the Strategic Director of Finance and Customer Services
  - b) in a sealed envelope marked "Tender" followed by the contract number and name to which it relates

- c) kept in a locked cabinet by the Strategic Director of Finance and Customer Services or his/her nominee
- d) retained unopened until the date and time specified for its opening.

- 12.4 No tender received after the time and date specified for its opening shall be accepted or considered by the Council unless the relevant Budget Manager is satisfied that there is sufficient evidence of the tender having been dispatched in time for it to have arrived before the closing date and time, or other exceptional circumstances apply and the other tenders have not been opened.
- 12.5 Where Tenders are expected to have a value in excess of £100,000, and the electronic tendering portal has NOT been used then they shall be opened in the presence of the appropriate Portfolio Holder or another Executive Member, a member of Internal audit or Strategic Director of Finance and Customer Services or his/her nominee and the Responsible Officer nominated by the relevant Budget Manager.
- 12.6 The Strategic Director of Finance and Customer Services or the member of internal audit shall undertake the completion of the Record of Receipt of Tender Documents book including names and addresses, date and time of opening and value. All taking part in the opening shall sign the book
- 12.7 The tender opening process for physical tenders is set out in detail at Appendix 1 to these contract standing orders.

### **13. Evaluation of Quotes and Tender**

- 13.1 All quotes and tenders shall be evaluated in accordance with evaluation criteria which was included with the original tender pack to tenderers. Tenders subject to the Regulations shall be evaluated in accordance with the Regulations.
- 13.2 Save in exceptional circumstances approved in advance by the relevant Service Manager, all contracts shall be awarded on the basis of the quote or tender which represents best value for money to the Council and not on the basis of lowest price.
- 13.3 The procurement documents must set out a clear and robust evaluation methodology and Responsible Officers must investigate any Tenders or Quotes which appear abnormally low.

### **14. Waivers**

- 14.1 The requirement for the Council to follow these standing orders may be waived in the following circumstances except requirements to comply with the Transparency Code and post contract award procedures still apply:

- a) For contracts which are not subject to the Public Contracts Regulations 2015 for which the work, supply or service is required as a matter of

urgency and a delay would be likely to lead to financial loss, personal injury or damage to property; or

- b) Where it can be demonstrated that there is a genuine single source of supply for the works/goods/service required
- c) the circumstances set out in the Public Contract Regulations 2015 Regulation 32 apply (whether or not the contract is of a type which is subject to the application of the Regulations); or
- d) the contract is awarded under a framework agreement of a type where a competition has already been undertaken on behalf of the Council; or
- e) at the discretion of the Monitoring Officer and Section 151 Officer who may proceed in a manner most expedient to the efficient management of the service/Council with reasons recorded in writing.

14.2 A Responsible Officer, who seeks a waiver of Contract Standing Orders, shall do so only in advance and only in exceptional circumstances. Further guidance on what may constitute exceptional circumstances permitting waiver of these Contract Standing Orders is set out in the Council's Purchasing Guide.

14.3 All waivers from these Contract Standing Orders must be:

- a) Fully documented
- b) Subject to the completion of the Council's standard waiver request form to be submitted in advance to the Monitoring Officer and Section 151 Officer which shall include reasons for the waiver which demonstrate that the waiver is genuinely required
- c) Applications for waivers which are a result of poor contract planning will rarely be considered genuinely exceptional.

14.4 All decisions on waivers must take into account:

- a) Probity
- b) Best value for money principles.

14.5 For contracts subject to the Regulations, any waiver from the requirement for competition must meet the conditions set out in the Regulations in addition to the general requirements above.

14.6 The Monitoring Officer will inform the relevant Portfolio Holder when a waiver is granted and these will be reported to the Performance and Audit Scrutiny Committee on an annual basis.

## **15. Extensions to Existing Contracts**

15.1 Contracts can be extended where this was an option contained within the original tender notice. Any extension on these grounds must be notified to finance so they can update the contract register

15.2 Any other request for an extension will be considered as a request for a waiver of procurement rules or modification permitted by the Public Contracts

Regulations 2015 and as such will only be granted in exceptional circumstances.

## **16. Purchasing Schemes**

16.1 A Responsible Officer may use Purchasing Schemes subject to the following conditions and the Council's Purchasing Guide.

16.2 Responsible Officers must check in advance that:

- a) The Council is legally entitled to use the Purchasing Scheme
- b) The purchases to be made do properly fall within the coverage of the Purchasing Scheme
- c) The establishment and operation of each Purchasing Scheme is in compliance with the Regulations (where they apply) and meets the Council's own requirements

16.3 A "Purchasing Scheme" may include:

- a) Contractor prequalification lists such as "Constructionline"
- b) Framework arrangements
- c) Purchasing arrangements set up by central purchasing bodies and commercial organisations
- d) Consortium purchasing
- e) Collaborative working arrangements

16.4 Where a Purchasing Scheme is used then there shall be a whole or partial exemption from the obligations under these Contract Standing Orders in respect of the choice and conduct of procedures to the extent permitted and indicated in the Council's Purchasing Guide.

16.5 Where tenders have been invited on behalf of any consortium or collaboration of which the Council is a member, then the Procurement Rules adopted by that body, provided they are the lead organisation, may be observed if they differ from these rules. The responsible officer must satisfy himself that the organisation concerned has complied with the Regulations if applicable.

## **17. Review and Changes to these Contract Standing Orders**

17.1 These Contract Standing Orders shall be reviewed and updated on a regular basis.

## **18. Transparency Code**

18.1 For all contracts over £5,000 the following details must be published on the Council's Contracts Register. Responsible Officer must liaise with the Council's Procurement Officer regarding updating the Contracts Register.

- (a) reference number
- (b) title of agreement
- (c) local authority department responsible
- (d) description of the goods and/or services being provided
- (e) supplier name and details
- (f) sum to be paid over the length of the contract or the estimated annual spending or budget for the contract
- (g) Value Added Tax that cannot be recovered
- (h) start, end and review dates
- (i) whether or not the contract was the result of an invitation to quote or a published invitation to tender
- (j) whether or not the supplier is a small or medium sized enterprise and/or a voluntary or community sector organisation and where it is, provide the relevant registration number

## **Tender opening Instructions to opening officers**

Present: Member	Appropriate Portfolio Holder or another Executive  Internal Audit Manager or Sec 151 Officer Responsible Officer
Requirements:	Unopened tenders Tender Book

### **1. General**

- 1.1 Before opening the tenders the Internal Audit manager or Sec 151 Officer shall check with the Post room that there are no tenders in the safe or at main reception or in the post box at the designated time for receipt; and that all tenders received up to that date are in his possession.
- 1.2 All tenders given to the member of internal audit should be properly sealed, dated and timed on receipt and show no signs of being tampered with. Where there is evidence of tampering the tender may still be opened but the member of internal audit shall make a statement to that effect in the tender book
- 1.3 The Member of Internal audit shall ensure prior to opening that each set of tenders to be opened are identifiable as relating to the same scheme. At this stage the internal audit manager should ascertain whether any late tenders have arrived (see Note 2 below).
- 1.4 Tenders should be opened as soon as possible and arrangements should be made in advance of that time with both Council Officers and Councillor to facilitate the procedure.
- 1.5 The Internal audit manager shall not destroy any of the tender envelopes but shall return them to the department who invited the tenders who shall consider their future retention. All envelopes relating to opened late tenders shall be kept.
- 1.6 If due to unusual circumstances a problem arises which is not covered by this code and cannot be resolved advice should be immediately sought from the Head of Legal Services.
- 1.7 The details of each tenderer and the value shall be recorded in the Tender register. The register shall be signed by all present to indicate that it represents a true record.

### **2. Late tenders**

- 2.1 A late tender is any tender arriving after the designated time on or after the appointed day.

2.2 In respect of all such tenders the envelopes shall be endorsed "late tender" and shall specify the time and date received together with the signature of the receiving officer.



## **E-Tender opening Instructions to opening officers**

Present: Responsible Officer

Requirements: Unopened E-tenders

### **3. General**

- 3.1 The Responsible Officer shall set the date and time of automated Tenderbox Closure on the Delta E-Sourcing portal.
- 3.2 The Responsible Officer shall ensure that E-Tenders are opened, viewed and stored in accordance with Data Protection Act Principles and associated Council policies. Furthermore the Responsible Officer will ensure that E-Tenders are only accepted if submitted through the Delta E-Sourcing portal.
- 3.3 E-Tenders shall be made available for the viewing of the Appropriate Portfolio Holder or another Member of the Executive, Internal Audit Manager or Section 151 Officer should they request this.
- 3.4 If due to unusual circumstances a problem arises which is not covered by this code and cannot be resolved advice should be immediately sought from the Head of Legal Services.
- 3.5 The Responsible Officer shall ensure that the documents comprising each E-Tender shall be retained in the corresponding Tenderbox on the Delta E-Sourcing portal in line with the Council's document retention policies.

### **4. Late E-Tenders**

- 4.1 A late E-Tender is any tender not submitted at the point of Tender Closure on the Delta E-Sourcing portal. It is not possible for E-Tenders to be received in this scenario and it is not acceptable to receive late E-Tenders through any other channel.

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**PART 4 - PROCEDURAL RULES**  
**SECTION J**  
**OFFICER EMPLOYMENT RULES**

**1. Recruitment and appointment**

**1.1 Declarations**

- (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- (b) No candidate so related to a councillor or an officer will be appointed without the authority of the Chief Executive or an officer nominated by him/her.

**1.2 Seeking support for appointment**

- (a) Subject to paragraph (c), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (b) Subject to paragraph (c), no councillor will seek support for any person for any appointment with the Council.
- (c) Nothing in paragraphs (a) and (b) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

**2. Recruitment of Head of Paid Service (Chief Executive), Strategic Directors and Heads of Service**

Where the Council proposes to appoint the Head of Paid Service (Chief Executive), Strategic Directors, and Heads of Service and it is not proposed that the appointment be made exclusively from among existing officers, the Council will:

- (a) draw up a statement specifying:
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;

- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph 1 to be sent to any person on request.

**3. Appointment of Head of Paid Service (Chief Executive)**

- (a) The Full Council will approve the appointment of the Head of Paid Service (Chief Executive) following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least the Leader or one Member of the Executive.
- (b) The Full Council may only make or approve the appointment of the Head of Paid Service (Chief Executive) where no well-founded objection, as determined by the Monitoring Officer, has been made by the Leader or any Member of the Executive.

**4. Appointment of Monitoring Officer and Section 151 Officer (Chief Finance Officer)**

- (a) The Full Council will approve the appointment of the Monitoring Officer and Section 151 Officer (Chief Finance Officer).
- (b) The Full Council may only make or approve the appointment of the Monitoring Officer and Section 151 Officer (Chief Finance Officer) where no well-founded objection, as determined by the Monitoring Officer, has been made by the Leader or any Member of the Executive.

**5. Appointment of Strategic Directors and Heads of Service**

- (a) A committee or sub-committee of the Council will appoint the Strategic Directors and Heads of Service. That committee or sub-committee must include at least the Leader or one Member of the Executive.
- (b) An offer of employment as the Strategic Director or Head of Service will only be made where no well-founded objection, as determined by the Monitoring Officer, from the Leader or any Member of the Executive has been received.

**6. Other appointments**

**(a) Officers below Head of Service**

Appointment of officers below Heads of Service level is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors.

(b) **Deputy Monitoring Officer and Deputy Section 151 Officer**

The appointment of the Deputy Monitoring Officer is the responsibility of the Monitoring Officer and the appointment of the Deputy Section 151 Officer is the responsibility of the Section 151 Officer.

7. **Disciplinary action**

(a) **Suspension**

The Head of Paid Service, Monitoring Officer and the Section 151 Officer may be suspended by the Council, the Employment Committee or, where short notice is required, by the Head of HR, Performance and Communications on the instruction of the Employment Committee Chairman for up to 10 working days pending further decision by the Employment Committee, whilst an investigation takes place into alleged misconduct.

(b) **Disciplinary Process**

Any disciplinary action taken in respect of a Statutory Officer will be conducted in accordance with the following:

- (i) Any allegations of misconduct will be referred to a Hearing Sub Committee which will decide whether to appoint an Independent Investigator to investigate the allegations or whether no further action should be taken.
- (ii) Where an investigation is appointed, that Hearing Sub Committee will receive the investigator's report and consider whether to refer the matter to a new Hearing Sub Committee, or whether no further action should be taken.
- (iii) A Hearing Sub Committee will consider whether the allegations are substantiated and, if so, whether one of the following outcomes is appropriate:
  - a) Dismissal;
  - b) Disciplinary action short of dismissal;
  - c) Informal action, such as training or mentoring;
  - d) No further action.
- (iv) In cases where the recommended action is dismissal of a Statutory Officer, an Independent Panel will be appointed in accordance with Regulations<sup>1</sup> and the decision maker must have regard to (A) any advice, views and recommendations of the panel, (B) the conclusions of any investigation into the proposed dismissal and (C) any representations from the relevant officer.

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<sup>1</sup> Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

- (v) In cases where the recommended action is dismissal of a Statutory Officer, the decision will be referred to the Full Council for decision, having followed the process at (iv) above.
- (vi) An Appeals Sub Committee will consider any appeals by a Statutory Officer to any disciplinary action taken against them where the action imposed falls short of dismissal.

Any initial disciplinary action taken in respect of non-statutory Strategic Directors and Heads of Service will be dealt with under authority delegated to the Head of Paid Service. However, it may on occasion be appropriate for a matter to be referred by the Head of Paid Service to Members, in which case the matter will be conducted in accordance with (i) – (iii) above.

- (vii) An Appeals Sub Committee will consider any appeals by a non-Statutory Strategic Directors and Heads of Service to any disciplinary action taken against them.
- (viii) All Disciplinary processes considered by Councillors will be carried out in accordance with the Disciplinary & Grievance Policy and Procedures for Statutory and non-Statutory CMT Officers in the Council's HR Policies and Procedures.

**(c) Officers below Head of Service**

Councillors will not be involved in the disciplinary action against any officer below Head of Service level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

**8. Dismissal**

Councillors will not be involved in the dismissal of any officer below Head of Service level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

**9. Grievances**

- (a) Any grievances raised by or against Statutory Officers will be heard by a Hearing Sub Committee. Any appeals will be heard by an Appeals Sub Committee.

- (b) Except in cases where (c) applies, any grievances raised by or against a non-Statutory Strategic Director or Head of Service will be dealt with by the Head of Paid Service.
- (c) Any grievances raised by or against a non-Statutory Strategic Director or Head of Service must be referred by the Head of Paid Service for determination by a Hearing Sub Committee, where reasons of impartiality, or other relevant considerations, make it appropriate to do so.
- (d) Any appeals relating to grievances for Statutory Officers and non-Statutory Strategic Directors or Heads of Service will be referred to an Appeals Sub Committee for determination.
- (e) All Grievances considered by Councillors will be carried out in accordance with the Disciplinary and the Grievance Policy and Procedures for Statutory and non-Statutory CMT Officers in the Council's HR Policies and Procedures.

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# **PART 4 - PROCEDURE RULES**

## **SECTION K**

### **SUBSTITUTION PROCEDURE RULES**

#### **1. INTRODUCTION**

- 1.1 The Council recognises that the purpose of the Local Government (Committees and Political Groups) Regulations is to ensure that, in the decision-making process, the political balance of and representation on committees and sub-committees is maintained. This Scheme for the use of substitutes has been adopted to ensure this principle is maintained.

#### **2. APPLICATION**

- 2.1 The scheme will apply to all committees, sub-committees and working groups except
- (i) the Executive and any Executive sub-committee;
  - (ii) the Licensing Committee when dealing with matters within the scope of the Licensing Act 2003; and
  - (ii) the Licensing Sub-Committees of the Licensing Committee and the Appeals Panel whose members and substitute members are appointed by officers under the Scheme of Delegation of Functions to Officers.

#### **3. NOMINATION AND APPOINTMENT**

- 3.1 The Council, when establishing committees and working groups of the Council, will also appoint substitutes to those bodies on the nomination of the political group leaders. Substitutes to other working groups will be appointed by the establishing body as appropriate.
- 3.2 The number of substitutes appointed will relate to the number of seats that each political group or grouping has on the body concerned as follows:
- More than 10 seats – 4 substitutes
  - 6 to 10 seats - 3 substitutes
  - 2 to 5 seats - 2 substitutes
  - 1 seat - 1 substitute.
- 3.3 On appointment, it shall be the responsibility of a substitute member to keep up to date with the business of the body to which he or she has been appointed to ensure effective decision making.

#### **4. ATTENDANCE**

- 4.1 It is the responsibility of the member to arrange for an appointed substitute to attend when he or she is unable to do so, and inform their party group leader
- 4.2 Only the appointed substitute members of a body may serve as a member of that body.
- 4.3 A substitute may only serve as a member at any meeting at which another member of the same political group is absent for the entire meeting. A substitute may not be appointed for specific items and no substitutions may be made during the course of the meeting, except as referred to in 4.6 below.
- 4.4 Immediately prior to the commencement of a meeting (or, if appropriate, on his or her arrival if the meeting has started) the appointed substitute will advise the Chairman and those present that he or she is attending as a substitute member.
- 4.5 If an appointed member attends a meeting after arranging for a substitute member to attend, the substitute member will continue as a voting member of the committee. If a substitute, however, has not arrived by the commencement of the meeting and the original appointed member is present, then the appointed member will continue as a voting member of the committee.
- 4.6 Where a substitute member has attended a meeting which is adjourned to a subsequent date, the appointed member may attend the reconvened meeting as the voting member, provided that the meeting is not part way through the consideration of an item or issue.
- 4.7 Any member attending as the appointed substitute will be entitled to travelling and subsistence allowance in accordance with the scheme approved by the Council.

#### **5. VOTING**

- 5.1 The substitute member will be entitled to speak and vote in his or her own capacity, and is not constrained by the views of the member for whom he or she is substituting.
- 5.2 No substitute member for the Planning Applications Committee or the Appointments Committee may vote unless he or she has been present for the entire consideration of the item under discussion.
- 5.3 No substitute member for the Planning Applications Committee may vote on any matter unless they have received suitable training.

# **PART 4 - PROCEDURE RULES**

## **SECTION L**

### **PETITIONS SCHEME**

#### **1. INTRODUCTION**

- 1.1** The Council welcomes petitions as a way in which people can let the Council know their concerns.
- 1.2** A petition will be treated as such if it is identified as being a petition, or if it seems to the Executive Head of Corporate that it is intended to be a petition. A petition created both on-line and on paper will only be treated as being a single petition if the action requested is identical. The paper element of the petition must be received by the Council before the date of the closure of the on-line element.
- 1.3** In the event that 2 petitions are submitted by different petition organisers where the action requested is identical, the first petitioner to submit their petition will, where relevant, have the opportunity to present their petition to a meeting.

#### **2. GUIDELINES FOR SUBMITTING A PETITION**

- 2.1** Petitions submitted to the Council must include
- 2.1.1 a clear and concise statement covering the subject of the petition, state what action the petitioners wish the Council to take,
  - 2.1.2 the name and address and signature of people in support of the petition, and
  - 2.1.3 the name, address and contact details of the petition organiser. (If the petition does not identify a petition organiser, the Council will contact signatories to agree who should act as the organiser).
- 2.2** Petitions which are considered by the Council's Monitoring Officer to be vexatious, abusive or otherwise inappropriate will not be accepted.
- 2.3** Petitions submitted in the period immediately before an election or referendum may be dealt with differently. The reasons for this, and possible revised timescales, will be explained.

**2.4** If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In this instance the petitioner will be informed of the reasons for this decision.

### **3. ACTION ON RECEIPT OF PETITIONS**

**3.1** An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. If the Council can do what the petition asks for the acknowledgement may confirm that the action requested has been taken. Otherwise the acknowledgement will inform the petitioner of the action the Council will take and, where relevant, the details of the meeting it is referred to. It will also be published on the Council's website.

**3.2** The response from the Council will depend upon the number of signatures received:

<b>Number of signatures received</b>	<b>Minimum response</b>
up to 99	A response from the relevant officer
100 to 499	A response from the relevant Portfolio Holder or relevant committee Chairman
500 or more	Referred to the Executive or Full Council or relevant standing Committee *

**3.3** If the petition reaches the required number of signatures to trigger a referral to Executive or Full Council then the acknowledgment will confirm this and inform the petitioner when and where the meeting will take place. If the petition needs further investigation, the petitioner will be informed of the steps the Council proposes to take.

**3.4** No action will be taken in respect of any petition considered by the Council's Monitoring Officer to be vexatious, abusive or otherwise inappropriate. The reasons for this will be explained in the acknowledgement of the petition.

**3.5** The scheme will not apply when the petition concerns a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or relates to a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, or where other procedures apply.

**3.6** Details of all the petitions submitted to the Council will be published on the Council's website, except in cases where this would be inappropriate.

Whenever possible the Council will also publish all correspondence relating to the petition (all personal details will be removed).

#### **4. RESPONSE TO PETITIONS**

- 4.1** The Council's 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:
- 4.1.1 taking the action requested in the petition
  - 4.1.2 considering the petition at meeting of the Executive or the Council
  - 4.1.3 holding an inquiry into the matter
  - 4.1.4 undertaking research into the matter
  - 4.1.5 holding a public meeting
  - 4.1.6 holding a consultation
  - 4.1.7 holding a meeting with petitioners
  - 4.1.8 referring the petition for consideration by one of the council's scrutiny committees
  - 4.1.9 calling a referendum
  - 4.1.10 writing to the petition organiser setting out the Council's views about the request in the petition
- 4.2** In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

#### **5. DEBATES AT FULL COUNCIL OR EXECUTIVE MEETINGS**

- 5.1** A petition containing 750 or more signatures will be debated by either the Full Council the Executive, or relevant standing Committee depending on the issue. This will usually be at the next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.
- 5.2** The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be debated. The Council or the Executive will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee.
- 5.3** Where a petition is heard at a meeting of the Executive, the Chairman will ensure that all Members in attendance at the meeting are given an opportunity to speak on the matter to ensure there is a full debate on the petition.
- 5.4** The petition organiser will receive written confirmation of this decision and confirmation will be published on the Council's website.

#### **6. E-PETITIONS**

- 6.1** The Council accepts e-petitions provided they are created and submitted through the Council's e-petitions facility website at [www.surreyheath.gov.uk](http://www.surreyheath.gov.uk).
- 6.2** E-petitions must follow the same guidelines as paper petitions as set out in this scheme.
- 6.3** The petition's creator must provide their name and postal email addresses. The petition creator must specify how long the petition will be open for signatures, up to a maximum of 12 months.
- 6.4** The Council may take up to five working days after receiving an e-petition to publish it online. This will allow the Council time to determine if the petition is suitable for publication.
- 6.5** If the Council decides it is unable to publish the petition for some reason, the petitioner will be contacted within five working days to explain. The petitioner will be given the opportunity to change and resubmit the petition if they wish. If this is not done within 10 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.
- 6.6** When an e-petition has closed for signature, the Democratic Services Manager will send an acknowledgement within 10 working days.
- 6.7** 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 the Council's website.

## **7. SIGNING AN E-PETITION**

- 7.1** Those wishing to sign an e-petition must provide their name, postcode and a valid email address. Only the name of the signatory will be included on the public section of the petition.



## **PART 5**

# **CODES AND PROTOCOLS**

### **Section**

A	Members' Code of Conduct	Green
B	Member and Officer Protocol	Blue
C	IT Code of Practice for Members	Grey
D	Planning Code of Practice for Councillors and Officers	Pink
E	Monitoring Officer Protocol	Lilac

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# PART 5 - CODES AND PROTOCOLS

## SECTION A

### MEMBERS' CODE OF CONDUCT

#### PART 1

##### GENERAL PROVISIONS

#### 1. Introduction and Interpretation

- 1.1. This Code applies to you only when acting in your capacity either as a councillor or co-opted member of the Council or its committees and sub-committees. This Code also applies where your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor or co-opted member. In applying this Code the Monitoring Officer, or Deputy Monitoring Officer as the case may be, shall recognise and give due consideration to every councillor's right to enhanced protection in respect of political expression.
- 1.2. 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:
- (a) **Selflessness.** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
  - (b) **Integrity.** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
  - (c) **Objectivity.** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
  - (d) **Accountability.** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
  - (e) **Openness.** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

- (f) **Honesty.** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- (g) **Leadership** Holders of public office should promote and support these principles by leadership and example.

1.3. In this Code, disclosable pecuniary interests are the interests specified in the Schedule to the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012 (attached as Annex A ) and

- (a) it is an interest that you have personally, or
- (b) it is an interest of:
  - i. your spouse or civil partner,
  - ii. a person with whom you are living as husband and wife, or
  - iii. a person with whom you are living as if you were civil partners,and you are aware that that other person has the interest.

1.4. In this Code, “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.

1.5. This Code does not cover matters in respect of which the Secretary of State may, under the Localism Act 2011, specifically provide that criminal sanctions will apply.

1.6. 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.

## 2. General Obligations

2.1. You must:-

- (a) treat others with respect;

(b) be transparent about conflicts of interest;

(c) act lawfully;

(d) act with integrity and honesty

2.2. You must not:-

(a) do anything which may cause the Council to breach any of the equality enactments;

(b) bully or harass any person;

(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.

2.3. 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:-

- reasonable and in the public interest; and

- made in good faith and in compliance with the reasonable requirements of the Council; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

- 2.4. 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.
- 2.5. 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 and to the Council's Guidance on Publicity and Conduct for Councillors and Officers Prior To an Election.
- 2.6. 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.
- 2.7. You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

**PART 2**  
**INTERESTS**

**1. Registration of Disclosable Pecuniary Interests**

- 1.1. 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 compromises 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 the Council's website.
- 1.2. 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 or this Code being adopted by the Council, notify the Monitoring Officer of any disclosable pecuniary interests which you have at the time when the notification is given. These interests will then be entered on the register of interests.
- 1.3. Where you become a councillor or co-opted member of the Council as a result of re-election or re-appointment, paragraph 1.2 applies only as regards disclosable pecuniary interests not entered in the register when the notification is given.

**2. Disclosure of Disclosable Pecuniary Interests and participation in decision making**

- 2.1. Subject to paragraph 4 (*dispensations*), if you are present at any meeting and you are aware that you have 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 5 below, disclose merely the fact that it is a disclosable pecuniary interest);
  - (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 also do so within 28 days of the date of the meeting at which it became apparent.

- 2.2. Subject to paragraph 4 (*dispensations*), if you are aware that you have 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.

- 2.3. You may participate in any business of the Council where that business relates to the Council's functions in respect of:-
- (a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (b) 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;
  - (c) 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;
  - (d) an allowance, payment or indemnity given to councillors or co-opted members;
  - (e) any ceremonial honour given to councillors; and
  - (f) setting Council Tax or a precept under the Local Government Finance Act 1992.

### **3. Registration and Disclosure of Non-Pecuniary Interests**

- 3.1. You have a non-pecuniary interest in any business of the Council where it relates to or is likely to affect
- (i) any body to which you are appointed or nominated to by the Council;
  - (ii) any body, of which you are a member or have a close connection with, which exercises functions of a public nature; or is directed to charitable purposes; or is one of whose principal purposes includes the influencing of public opinion or policy (including any political party or trade union),
  - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

- (iv) Where a matter arises at a meeting which directly relates to your financial interest (and is not a Disclosable Pecuniary Interest set out in Annex A) or a financial interest of a close relative or close associate.
  - (v) Where a matter arises at a Planning Committee meeting which may, due to proximity, have an impact on land or property you own or otherwise have a legal or beneficial interest.
- 3.2. Where you attend a meeting of the Council, and you have a non-pecuniary interest in any business being considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent. The existence and disclosure of a non-pecuniary interest under sections 3.1 (i), (ii) , (iii) or (v) does not prevent you from taking part in the debate and voting on that business unless you consider that the interest affects your judgment or impartiality. The existence and disclosure of a non-pecuniary interest under section 3.1 (iv) means you must not participate in any discussion or vote regarding the relevant matter(s) and you must withdraw immediately from the room or chamber (including the public gallery) where the meeting considering that matter is being held.
- 3.3. Sub-paragraph 3.2 only applies where you are aware or ought reasonably to be aware of the existence of the non-pecuniary interest.
- 3.4. You must, within 28 days of
- (a) this Code being adopted by the Council; or
  - (b) your election or appointment to office (where that is later),
- register in the Council's register of members' interests details of your non-pecuniary interests where they fall within a category mentioned in paragraph 3.1 by providing written notification to the Council's Monitoring Officer.
- 3.5. You must, within 28 days of becoming aware of any changes to your non-pecuniary interests, register details of those changes in the Council's register of members' interests.
- 3.6. Entries in the register of interests will be removed once the person concerned no longer has the interest, or is neither a councillor nor a co-opted member of the Council.

#### **4. Dispensations**

- 4.1. 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.

- 4.2. 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/she 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.
- 4.3. The Audit & 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.
- 4.4. Any dispensation granted must specify the period for which it has effect, and the period specified may not exceed four years.

## **5. Sensitive Information**

- 5.1. Sub-paragraphs 5.2 and 5.3 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.
- 5.2. 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).
- 5.3. 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.

## **6. Acceptance of Gifts and Hospitality**

- 6.1. As a councillor or co-opted member of the Council you must avoid accepting any gift, hospitality or other favour which could give the impression of compromising your honesty or objectivity. In particular you
- (a) should avoid any behaviour which might reasonably be seen as motivated by personal gain;
  - (b) should exercise caution in accepting any gifts or hospitality which are (or which you might reasonably believe to be) offered to you because you are a councillor or co-opted member;
  - (c) should never accept significant gifts or hospitality (i.e. anything with a value of £25 or more) from suppliers or contractors seeking to acquire or develop business with the Council; and
  - (d) must register any gift you receive or hospitality you accept (of a value of £25 or more) in the register of interests maintained by the Council.
- 6.2. The requirement to register the acceptance of hospitality of a value of £25 or more does not apply to Councillors undertaking Mayoral duties or when representing the Council at mayoral engagements. A list of current Mayoral Engagements is published on the Council's Website.

## **7. Pre-determination or bias**

- 7.1. 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 councillor, however you should not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- 7.2. When making a decision, you should always consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken. When making a decision, if you are not able to consider a particular matter with an open mind you should not participate in the debate or vote notwithstanding that you may be predisposed or have expressed previous views. You must also withdraw immediately from the room or chamber (including the public gallery) where the meeting considering that matter is being held.

**The Schedule to the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012**

<b>Subject</b>	<b>Prescribed description</b>
<b>Employment, office, trade, profession or vocation</b>	<b>Any employment, office, trade, profession or vocation carried on for profit or gain.</b>
<b>Sponsorship</b>	<b>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.</b>
<b>Contracts</b>	<b>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</b>  <b>(a) under which goods or services are to be provided or works are to be executed; and</b> <b>(b) which has not been fully discharged.</b>
<b>Land</b>	<b>Any beneficial interest in land which is within the area of the relevant authority.</b>
<b>Licences</b>	<b>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</b>
<b>Corporate tenancies</b>	<b>Any tenancy where (to M's knowledge)</b>  <b>(a) the landlord is the relevant authority; and</b> <b>(b) the tenant is a body in which the relevant person</b>  <b>has a beneficial interest.</b>
<b>Securities</b>	<b>Any beneficial interest in securities of a body where</b>  <b>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</b>  <b>(b) either</b>

\*Note "M" means a member or co-opted member of the Council.

	<p><b>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</b></p> <p><b>(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.</b></p>
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## **PART 5 - CODES AND PROTOCOLS SECTION B**

### **MEMBER AND OFFICER PROTOCOL**

#### **1. INTRODUCTION AND PRINCIPLES**

- 1.1 The purpose of this protocol is to provide a guide to good working relationships between officers and councillors (elected Members) and to provide some principles governing appropriate conduct. The object of this Protocol is to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct by elected Members and officers. Throughout this document "officer" shall be defined as being any employee of the Council, whether employed full-time, part-time or on a temporary contract.
- 1.2 The protocol seeks to reflect the principles underlying the separate Codes of Conduct for Members and Officers of the Council, which must be read in conjunction with this document.
- 1.3 In everything they do, the elected Members and officers of the Borough Council are obliged to act within the law and in compliance with relevant standards and codes of conduct.
- 1.4 All elected members of the Council are ultimately accountable to the people of the Borough of Surrey Heath. The officers serve the whole Council as a single statutory corporate body and will provide adequate support to all elected members in their local or representational role. Members and officers need to be clear about their respective roles in the authority. This can only be achieved if there is mutual understanding and good communications.
- 1.5 Mutual respect and courtesy between officers and Members is essential to good local government. The interests of the Council are best served where there is mutual confidence and trust between all elected Members and officers. The working relationship between an officer and a Member must not be so close as to bring into question the officer's ability to deal impartially and fairly with other Members.
- 1.6 Members must recognise that officers are required to be politically neutral and serve all Members equally and that officers owe a duty to the whole Council. Members must ensure that officers are not put in a position that prejudices their overall duty or put an officer in a position where there would be a conflict between that officer and his or her line manager. Members must not give direct instructions to junior officers but must communicate with senior officers. Members must not put pressure on, or seek to intimidate, officers.
- 1.7 Neither Members nor officers must try to take unfair advantage of their position.

## **2. STATUTORY CODE OF CONDUCT FOR MEMBERS**

- 2.1 The Council's Code of Conduct for Members is at Section A of Part 5 of this Constitution. This Code of Conduct sets out the standards of conduct and integrity which are expected of an elected Member. Various provisions of the Code are relevant to member/officer relations and are referred to in this Protocol.
- 2.2 Code of Conduct broadly requires Members:
- a) to treat others with respect;
  - b) not to do anything which could be considered to be a breach of any equality legislation;
  - c) not to bully any person;
  - d) not to intimidate or attempt to intimidate any person in relation to an allegation that a Member has failed to comply with the authority's Code of Conduct; and
  - e) not to do anything likely to compromise the impartiality of officers.
- 2.3 It is important that in any dealings between Members and officers both must observe reasonable standards of courtesy, and that neither party must seek to take unfair advantage of their position.
- 2.4 The Code of Conduct also requires Members, when reaching decisions, to have regard to any relevant advice provided by the Section 151 Officer (when acting in pursuance of his duties under Section 114 of the Local Government Finance Act 1988) and the Monitoring Officer (when acting in pursuance of his duties under Section 5(2) of the Local Government and Housing Act 1989).
- 2.5 The Council confirms that, in undertaking their functions, the Section 151 Officer, acting as Chief Finance Officer, and the Monitoring Officer will ensure the impartiality of any advice or instruction given, and that Members will do nothing to compromise the statutory responsibilities of these officers.
- 2.6 The Code of Conduct also requires Members not to seek to influence improperly a decision and not to exercise functions in relation to any business of the Council where the Member has a Disclosable Pecuniary Interest.
- 2.7 The Code of Conduct states that Members must not disclose information given to them in confidence, or information which they believe to be confidential, without the consent of a person authorised to give it, or unless required by law to do so. If the Monitoring Officer considers that a Member has disclosed confidential information obtained in the course of his/her duties, the matter may be investigated.

## **3. CODE OF CONDUCT FOR OFFICERS**

- 3.1 The Code of Conduct for Officers forms part of officers' Terms and Conditions of Employment. It sets out the standards of conduct and integrity which are expected of a local government officer and the standard of service to the

public. It reiterates that mutual respect between officers and councillors is essential to good government.

- 3.2 Certain provisions within the Code relate to Member and officer relationships and appropriate conduct. The Code requires officers to serve the authority as a whole, serving all councillors whilst maintaining political neutrality at all times, and to ensure that the individual rights of all councillors are respected. Where it is part of their duties officers must provide appropriate advice to councillors and fellow officers with impartiality. They must not release any confidential information or use information obtained in the course of their employment for personal gain or pass it on to others who might use it in such a way.
- 3.3 Officers are responsible to the authority through their Executive Head of Service or Head of Service and must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.

#### **4. THE RELATIONSHIP BETWEEN MEMBERS AND OFFICERS**

##### General

- 4.1 Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual Members and officers can damage this relationship and prove embarrassing to other councillors and officers. Such a personal familiarity is discouraged as there is a danger of favouritism being shown to a particular Member or officer or a risk that confidential information will be shared. Members must at all times avoid any occasion for suspicion and any appearance of improper conduct. It is, however, recognised that there may be occasions when familiarity is unavoidable, particularly where family relationships or common interests (eg a club) arise.
- 4.2 The Council recognises that in a large organisation it is inevitable that there may be close social or personal relationships between members and officers. These relationships may have commenced before, or after, a councillor is elected to the Council or before, or after, a person becomes employed by the Council.

##### Disclosure of close personal relationships

- 4.3 The councillor must disclose any relationship with an officer which might be seen as influencing their work to his Group Leader and the Monitoring Officer, and the employee such a relationship to his/her Executive Head of Service or Head of Service. This includes any family, business or close personal relationships. It is not possible to define exactly the range of relationship that would be considered as close or personal. Examples, however, would include a family or sexual relationship and regular social mixing such as holidays or evening meals together.

- 4.4 Any disclosures must be made in writing to the Monitoring Officer. This is to protect both the individual and the Council.
- 4.5 To ensure that neither the Member nor the employee is placed in a position where their relationship will be seen to conflict with this Protocol or with the Council's Code of Conduct, Members must not hold a portfolio or the position of chairman of a regulatory committee which covers a department for which an officer does significant work if they are related to, or the partner of, that officer. A role in policy making, strategic or operational management or resource allocation would be considered as significant work.

#### Working relationships between Members and officers

- 4.6 It is clearly important that there must be a close working relationship between Members and senior officers. However, such relationships must never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal with other Members and other party groups.
- 4.7 The relevant portfolio holder or the Chairman of a Committee are usually consulted as part of the process of drawing up the agenda for a forthcoming meeting. Sometimes an officer will be under a duty to submit a report to a meeting on a particular matter. A senior officer will always be fully responsible for the contents of any report submitted by his/her service area. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising in this area must be referred to the relevant Lead Officer for resolution in conjunction with the Leader of the Council or Chairman of the Committee, as appropriate. The advice of the Monitoring Officer should be sought where necessary.
- 4.8 Members have the right to question/challenge reports and the actions taken by officers but they must always
- a) avoid physical or personal attacks on or abuse of officers
  - b) ensure that any criticism is constructive and well founded
  - c) respect professional advice
  - d) allow the officer an opportunity to explain what might appear to be a performance failure or inconsistency
  - e) recognise that an officer has the final say on the wording of the report
- 4.9 Members recognise that officers have the duty and right to provide appropriate professional advice, and the right to have that advice recorded, so that all elected Members are fully aware of the implications of their decisions. Officers recognise that it is the right of the elected Members to take the final decisions in the light of their advice.
- 4.10 Where the Council, the Leader/Executive or a committee or sub committee authorises a named officer or officers to take action after consultation with a Member or Members, it must be recognised that it is the officer, not the



Member, who takes the action and the officer who is accountable for the implementation of the decision. If an officer has concerns about a decision they have been instructed to action, they should approach the Chief Executive or Monitoring Officer for guidance.

- 4.11 Officers are accountable to their Executive Head of Service or Head of Service. While officers must always seek to assist Portfolio Holders and Chairmen (or indeed any Member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Executive Head of Service or Head of Service. Members must not deliberately put staff in a position that could give rise to conflict between them and their Manager and/or Executive Head of Service or Head of Service.

#### Council's role as employer

- 4.12 In their dealings with officers, Members must recognise and have regard to the Council's role as employer. Members must be aware that officers could rely on inappropriate behaviour of a Member in an employment case against the Council.
- 4.13 A Member must not act as the "friend" of an individual in a staffing matter and must avoid being involved in and lobbying over staffing matters.
- 4.14 It is equally the responsibility of all staff to respect the structural, procedural and managerial arrangements in force at any time and specifically refrain from taking individual matters of terms and conditions or a matter relating to other aspects of employment directly to an elected Member.
- 4.15 Should such an approach occur the Member must refer the matter to the Chief Executive or Monitoring Officer without comment other than to advise the member of staff of such action. The Chief Executive or Monitoring Officer will refer the matter to the Human Resources department where appropriate.

#### The Speak Up Policy

- 4.16 Any concerns of wrong-doing raised by officers with the Chairman or Vice Chairman of the Employment Committee or Political Group Leaders, which are deemed to be qualifying disclosures as set out in the Speak Up Policy, will not be treated as a breach of this Protocol.

### **5. CONCERNS ABOUT CONDUCT AND CAPABILITY**

- 5.1 Members must not raise issues about the conduct or capability of an officer or officers in public as officers cannot respond in public. Members must avoid undermining respect for officers at meetings, or in any public forum. This is a long standing tradition in public service. Officers similarly must not criticise or undermine respect for Members at a Council meeting or at any other meeting they attend in their capacity as an employee. This would be damaging both to effective work relationships and to the public image of the Council.

- 5.2 If a Member feels that an officer has not treated him/her with proper respect or courtesy, or has a concern about the conduct or capability of an officer, he/she must raise the matter with the relevant Executive Head of Service or Head of Service. The Executive Head of Service or Head of Service will look into the facts and report back to the Member. If the Member continues to feel concerned, he/she must then report the facts to the Chief Executive who will look into the matter afresh. Any concern about an Executive Head of Service or a Head of Service must be raised privately with the Chief Executive, Monitoring Officer or the Member's Group Leader. Any concern about the Chief Executive must be raised privately with the Monitoring Officer, or the Member's Group Leader.
- 5.3 If an officer feels that he or she has not been treated with respect and courtesy or is concerned about any action or statement relating to him or her or a colleague by a Member, or the conduct of a Member, the officer must raise the matter with the Monitoring Officer, as appropriate. Informal advice can be sought from their line manager or Executive Head of Service or Head of Service.
- 5.4 If a Member or an officer believes a Member has breached the Members' Code of Conduct he or she must advise the Monitoring Officer immediately of the circumstances and supply all and any documentation. No opinion or judgement upon that conduct must be offered to the Member or to any other officer or Member without the prior consent of the Monitoring Officer in order to prevent any investigation that may need to be carried out being fettered or damaged.
- 5.5 Where an officer or a Member is concerned about potential unlawful conduct of an officer or Member, the Council's Speak Up procedure is available to raise issues of bad practice, possible fraud or corruption and other matters which seem to be against the interests of the public, the Council or its staff. The Member or officer can also speak to the Monitoring Officer or the Section 151 Officer, or in their absence their deputies.

## **6. OFFICER ADVICE AND SUPPORT**

### Generally

- 6.1 Officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual member of the Council. Officers must treat all political groups and individual Members in a fair and even-handed manner. Whilst in practice support is likely to be in most demand from whichever party group is for the time being in control of the Council, support is available to all party groups.
- 6.2 The advice provided by officers must be factual, honest, objective and politically neutral yet sensitive to the political aspirations and constraints of elected Members but it must not reflect, or be influenced by, those aspirations and constraints. The advice given by officers will have the ultimate aim of

serving the interests of the Borough Council as a whole. Members shall take the advice of officers into account.

- 6.3 Officers will often wish to seek political guidance in framing policy proposals but, when officers write formal reports for Member decision, they have a duty to give the advice dictated by their professional expertise. Members must not, therefore, direct the content of formal reports being prepared by any officers.
- 6.4 Officers can only be asked to provide advice to Members on matters which clearly relate to the Council's business and activities and issues which arise from being an elected Member. Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a member of the Council. Members must not request officers to carry out research for them covertly. Members' access to information will be a 'need to know' basis (as outlined in the Access to Information Procedure Rules at Section E of Part 4 of the Constitution).
- 6.5 Members may approach any officer to obtain such reasonable information, explanation and advice about that officer's service area's functions to assist in discharging their role as members of the Council or any particular role, e.g. representative on an outside body to which they have been appointed by the Council. This can range from a request for general information or research about some aspect of a service area's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the Executive Service Head, Service Head or another senior officer of the service concerned. In cases of doubt, the appropriate Executive Head of Service or Head of Service or the Monitoring Officer should be asked for assistance.
- 6.6 Officers responding to Members' queries must do so in accordance with the Council's Customer Care Standards.

#### Support to party groups

- 6.7 It is common practice for political groups to give preliminary consideration to Council business before the matter is considered by the relevant Council decision making body. Officers may properly be called upon to provide support to party groups, and the support can take many forms, ranging from a briefing meeting with a Chairman or spokesman before a formal meeting, to a presentation to a full party group meeting.
- 6.8 Requests for officers to attend any party group meeting must be made through the Chief Executive or Monitoring Officer. Members cannot insist that officers go to meetings of political groups.
- 6.9 Officer support must not extend beyond providing information and advice on Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or part of meetings when matters

of party business are to be discussed. To facilitate this, where an officer accepts an invitation to attend a party group meeting, the party secretary must arrange the meeting so that any briefing or presentation given by the officer is immediately followed by a question/clarification session. The officer will then leave the meeting whilst the political discussion takes place. It may be appropriate to ask the officer to remain outside the meeting for not longer than 15 minutes, in case any further clarifications are necessary.

- 6.10 Officers must interpret any request for advice, and advice given, as confidential and not accessible to any other political group. They must not relay the content of any discussions at which they are present to another political group. However, factual information upon which the advice is based will, if requested, be available to all political groups.
- 6.11 An officer's advice to a political group or member, or help in formulating a policy, must not be assumed to be support by the officer for the policy.
- 6.12 Officers' advice to a party group cannot be a substitute for providing all necessary information and advice to the Leader/Executive, Committee or Working Group when the matter in question is considered.
- 6.13 Group Leaders must ensure that only councillors are present whilst party groups are being briefed by officers. If the officer is aware that non-councillors are present at the group meeting, he/she must leave without addressing the meeting.
- 6.14 Political group meetings are not empowered to make decisions on behalf of the Council. Conclusions reached at party meetings therefore must not be interpreted or acted upon as decisions on behalf of the Council.
- 6.15 In addition to any briefing before a meeting, minority group representatives will also be afforded the opportunity of a briefing through their appropriate spokesman.
- 6.16 Any particular cases of difficulty or uncertainty in this area must be raised with the Chief Executive or Monitoring Officer, who will discuss them with the relevant group leader(s).

## **7. OTHER LOCAL CONVENTIONS GOVERNING MEMBER/OFFICER RELATIONS**

### Correspondence

- 7.1 An officer should not normally copy correspondence between an individual Member and an officer on a matter relating to a single constituent to any other Member. Where, exceptionally, it is necessary to copy the correspondence to another Member, this must be made clear to the original Member. In other words, a system of "silent or blind copies" must not be used. If the officer is unsure he/she must seek clarification from his/her Executive Head of Service or Head of Service.

- 7.2 In some cases issues are raised by, or with, individual members relating to a matter of general interest in a Borough Council Ward or individual Parish. Copies of correspondence will therefore normally be sent to all councillors for the ward (and adjacent area if appropriate) and only in exceptional circumstances will a request not to copy to other councillors be granted, for example, the author may have specifically requested that the letter not be copied. Political advantage or sensitivity is not considered to be such a circumstance.
- 7.3 Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to be signed by a Member, but this must be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council must never be sent out in the name of a Member.

#### Involvement of Ward councillors

- 7.4 Whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members must be informed or involved, as appropriate, not later than at the outset of the exercise. Similarly whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected must, as a matter of course, be invited to attend the meeting. Where officers are invited to make presentations at public meetings organised by external organisations, Ward Members must be informed.

#### Public relations and press releases

- 7.5 The Council's Marketing and Communications Section serves the Council as a whole and must operate within the limits of the Code of Recommended Practice on Local Authority Publicity issued under the Local Government Act 1986. Broadly, the 1986 Act prohibits the Council from publishing material that appears designed to affect public support for a political party.
- 7.6 Officers draft press releases on behalf of the Council. They will often contain quotations (within the limit of the Act and Code of Recommended Practice) from the Leader of the Council, a Portfolio Holder, the Chairman or Vice-Chairman of a Committee or the Mayor or Deputy Mayor of the Council about ceremonial events. Such press releases are issued on behalf of the Borough Council and it would not, therefore, be appropriate when including quotations from Members to indicate the Members' party political affiliation.

### **8. BREACH OF THE PROTOCOL**

- 8.1 Complaints about any breach of this protocol by a Member may be referred to the Monitoring Officer. Certain breaches may also amount to breaches of the

Code of Conduct for Members (set out at Section A of Part 5 of the Constitution) and will be dealt with by the Monitoring Officer.

- 8.2 Complaints about any breach of this protocol by an officer may be referred to the Chief Executive or the Monitoring Officer.

## **9. APPLICATION, INTERPRETATION AND AMENDMENTS**

- 9.1 If there are any issues of concern which are not dealt with by this protocol, then the relevant Member or officer may discuss the matter with the Chief Executive or Monitoring Officer with a view to advice being provided.

- 9.2 Should any Member or officer wish to suggest an amendment to this protocol, he or she is asked to contact the Monitoring Officer.

**PART 5 - CODES AND PROTOCOLS**  
**SECTION C**  
**ICT CODE OF PRACTICE FOR MEMBERS**

**1. Introduction**

- 1.1 The Council is committed to e-governance and has accordingly agreed to provide tablet equipment to all members of the Council who require it to ensure this aspiration can be achieved. All members of the Council have to be readily accessible by email and be able to receive information electronically. In recognition of the importance the Council views this provision; the Council has adopted the IT Code of Practice as part of the Members' Code of Conduct.
- 1.2 The sections of this document provide important information regarding the Council's protocol for Information Management. Failure to follow the guidelines detailed in this Code of Practice could lead to a breach of the Members' Code of Conduct.

**2. Equipment and Software**

- 2.1 The Council is only responsible for the control and maintenance of computer equipment provided by the Council. The Council provides tablets for the use by Councillors. No responsibility or work will be undertaken by ICT on computer or telephony equipment not provided by the Council. Members using their own computer equipment will be responsible for the cost and maintenance. Support for council provided equipment can only be provided at Surrey Heath Borough Council offices in Knoll Road.
- 2.2 All equipment and software provided by the Council remains the property of the Council at all times. The equipment provided is solely for the use of the Council Member for whom the equipment is provided and is not to be used by other members of the household, friends or relatives.
- 2.3 The Member is responsible for keeping the equipment provided in a good condition, subject to fair wear and tear. Due care must be undertaken to keep the provided equipment safe and secure, in accordance with the signed equipment agreement. In the event of a device being lost which has access to Council information should be reported to the ICT team as soon as possible.
- 2.4 The Member must return all the equipment supplied by the Council, if the Member ceases to be a Member of the Council, or on request by the Council, if the Audit and Standards Committee is satisfied that the Member has broken this Code of Practice. The equipment should be returned, or made available for collection as soon as possible and within one month of the above circumstances occurring.
- 2.5 Waste computer output must be disposed of with due regard to its sensitivity. Printed output with confidential or personal details must be shredded. Special

confidential waste sacks can be provided by the Council for the disposal of sensitive waste.

### **3. Training and User Guides**

- 3.1 User notes are normally provided for email and iPad usage. Additional assistance and training at Surrey Heath Borough Council offices can be provided on request through the ICT Service Desk.

### **4. Passwords / Authentication**

- 4.1 Passwords must be kept secure and must not be disclosed to anyone, except to staff authorised by ICT staff, where required. Passwords must not be written down or displayed in any way that would allow the password to become known to others. Multifactor Authentication (MFA) must be used in combination with a password to further enhance security.
- 4.2 Access to your Surrey Heath provided account outside of UK is restricted, should you require access outside the UK please provide at least 5 working days' notice to the ICT team.

### **5. Email, Storage and Internet Usage**

- 5.1 The email, storage and software facilities provided by the Council should be principally used for Council business. Council business is defined as "business which is applicable to the work officially undertaken for the Council, including any data that is provided by your constituents or the Council and is used in the same way as an officer of the Council may make use of the data and it relates to a statutory function provided by the Council ". If storing ward work, for example; personal details of complaints, personal data held for constituency purposes, surgery lists, charity association data, canvassing data, political party records or data that does not relate directly to the statutory function of the Council this should be stored in a separate folder so that it can be easily identified to ensure that it is not released under FOI and is not retained by the Council for longer than is necessary.
- 5.2 The Council will provide an official email account, for each Member, using the domain name of [surreyheath.gov.uk](mailto:surreyheath.gov.uk). This email account should be used for all Council official and work related email sent and received by the Member. Web based personal or non-Council email accounts such as Hotmail and Gmail must not be used for Council business.
- 5.3 Under no circumstances should a rule be applied to your Surrey Heath provided email account to automatically redirect emails. This includes to another Council if a Surrey County Councillor or a Parish Councillor.
- 5.4 As a Member of the Council it is important that appropriate language and style of communication is used. Councillor emails, storage, Teams and written communication fall under the Freedom of Information Act and Data Protection Subject Access Rights and need to be made available for release, subject to



applicable exemptions being applied, on request from the Information Governance Manager.

- 5.5 Abusive, harassing or defamatory remarks, fraudulent or obscene messages or materials must not be used within email messages or attachments. The sending or forwarding of chain letters, text jokes, joke images or other forms of mass mailing is also prohibited. Members should always be aware that material that they personally may find inoffensive could be offensive or hurtful to others. Emails should be written in a business-like manner.
- 5.6 Unacceptable uses of the Internet from council provided equipment include, but are not limited to:
- (i) the downloading, transmission or posting of any material which is pornographic, obscene, threatening, insulting or otherwise offensive in nature.
  - (ii) personal use for product advertisement or commercial activities.
  - (iii) any unlawful or illegal activities.
  - (iv) any other activity which, under the Code of Conduct, would bring the Council into disrepute.
- 5.6 All external outgoing email will be appended automatically with the Council's standard disclaimer.

## **6. Use of Social Network Sites**

- 6.1 Members need to assess the risk posed by their individual use of social network sites such as Facebook or Twitter. If a member is unsure of whether to use a social networking or public online site, they should seek advice and guidance from the Group Leader or the Monitoring Officer. Members must be mindful that they follow the Surrey Heath Code of Conduct for Members when they represent Surrey Heath Borough Council on such sites.

## **7. Software Licensing**

- 7.1 The Council operates software-licensing controls and deliberate downloading of unauthorised software from the Internet onto Council provided equipment is strictly forbidden. Authorised downloads would normally only include Council prescribed apps and documents designed for viewing or printing.

## **8. Monitoring of Email, Storage and Teams**

- 8.1 The Council reserves the right to monitor email storage and Teams usage under the supervision of the Monitoring Officer.

## **9. Abuse of the Code of Practice**

- 9.1 Breach of the Code of Practice, as determined by the Audit and Standards Committee, may result in Council owned equipment being removed.

## **10. Data Protection**

- 10.1 Elected members have data protection responsibilities for personal information they process in their work. This means they are responsible for making sure all personal data handled by their office is done in a way that complies with the requirements of the Data Protection Act and UK General Data Protection Regulations. Further guidance for Councillors when collecting and processing data can be found in the SHBC Data Protection Guidance for Councillors.
- 10.2 Elected members are data controllers under the UK General Data Protection Regulation for Ward work. It is the responsibility of each member to identify if they are required to register with the Information Commissioners Office.
- 10.3 Elected members should use the Council's email and storage facility provided to them by the Council for Council business, if a Councillor chooses to store ward work on the Council provided storage then as the data controller of that data they are responsible for ensuring that this is separated and clearly identified. Information stored on the Council network may be subject to the Council's Freedom of Information procedures and Data Protection policy.
- 10.4 Councillors are advised to run annual audits of the data that they are processing and storing, any data that is no longer required or has met its retention period should be securely deleted or destroyed.
- 10.5 Any data stored on the Council network by the member will be retained until such a time that the member leaves office, when the member has left office the Council will close access to the data and the data will be deleted from the network. Any Member's emails will be retained in line with the Council's email retention policy.
- 10.6 In the event of electronic or paper medium containing Council personal, sensitive or confidential information being lost or miscommunicated, the Data Protection Officer (Monitoring Officer), Information Governance Manager or ICT Manager must be notified immediately.
- 10.7 In order to protect themselves and the Council, all Members are required to undertake bi-annual training in relation to Data Protection.

# **PART 5 - CODES AND PROTOCOLS**

## **SECTION D**

### **PLANNING CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS**

#### **1. PURPOSE OF THE CODE OF PRACTICE**

- 1.1 This Code of Practice is intended to provide clear guidance to Councillors and officers about how they should carry out their duties in relating to planning matters so as to ensure openness, transparency and consistency in decision-making and to set standards of probity and conduct which the residents of Surrey Heath can expect.

#### **2. CONTEXT**

- 2.1 The town and country planning system involves the Council taking decisions about the development and use of land in the public interest. Planning law requires that all planning applications are determined in accordance with the approved Development Plan unless material planning considerations, such as the National Planning Policy Framework, indicate otherwise.
- 2.2 Planning is often highly contentious because its decisions affect the lives of everyone, be they applicant, objector, supporter or local resident. This is heightened by the system actively inviting public opinion on applications before decisions are taken. It is essential, therefore, that the planning process is characterised by transparent, consistent and open decision-making.

#### **3. GENERAL ROLES AND RESPONSIBILITIES**

- 3.1 Councillors and Officers have different, but complementary, roles in the planning process. Likewise members of the Planning Applications Committee have different roles from other Councillors when exercising the functions of the Local Planning Authority. All Councillors are, however, bound by the terms of the Council's Code of Conduct.

##### **Members of the Planning Applications Committee**

- 3.2 Whilst the determination of a planning application is not a 'quasi-judicial' process, it is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Ombudsman on grounds of maladministration or a breach of the authority's code.

- 3.3 Given the nature of decisions made at Committee meetings, Councillors will not be permitted to vote in relation to an application unless they have been present in the meeting throughout the consideration of the application in question.
- 3.4 In addition to complying with the Council's Code of Conduct, Councillors who sit on the Planning Applications Committee must: -
- (a) act fairly and openly
  - (b) avoid inappropriate social contact with applicants and their agents, objectors and other interested parties
  - (c) despite any views expressed publically, approach decision-making with an open mind, and have regard to all material planning considerations and be prepared to change their view if persuaded they should
  - (d) make decisions purely on planning grounds in the public interest and not favour, or appear to favour, any person, company, group or locality
  - (e) not decide how to vote on each application on the basis of any political "whip", but solely on the planning merits
  - (f) ensure that the reasons for their decisions are clearly stated at the meeting.

### **Other Councillors**

- 3.5 Councillors who do not sit on the Planning Applications Committee represent their wards and the Borough as a whole and may exercise their right to attend meetings of the Planning Applications Committee to speak, although not vote, on any planning matter.
- 3.6 Councillors should particularly note that they have the same duty as members of the Committee in respect of compliance with the Code of Conduct when they attend any meeting and should always declare any pecuniary or non-pecuniary interests at the appropriate stage in the proceedings.
- 3.7 In order to avoid confusion for the public attending meetings of the Planning Applications Committee, Councillors, who are not members of the Committee, must not sit with those who are and must sit in the area designated for non-members. The Chairman, at the beginning of the meeting will identify the members of the Committee and any other councillors present who are not members of the Committee.
- 3.8 Councillors who are not members of the Committee do not act in any decision making role, but shall nonetheless act fairly and openly.

- 3.9 In certain circumstances, the full Council carries out the functions of the Planning Applications Committee and Councillors should be aware that in those circumstances they should comply with the provisions of this Code of Practice.

### **Officers**

- 3.10 Officers are responsible to the Council as a whole. They must always act openly and impartially and provide consistent professional advice based on planning policies and procedures and planning law, ensuring that members of the Committee are aware of all relevant material planning considerations before decisions are made. Officers must comply with any professional codes of conduct that may be applicable; for Planning Officers this is the Royal Town Planning Institute's (RTPI) Code of Professional Conduct<sup>1</sup>. Officers must also conscientiously carry out the decisions of the Committee.

## **4. CODE OF CONDUCT**

- 4.1 The Council has adopted a Members' Code of Conduct at Part 5 of this Constitution. The Code of Conduct requires the open disclosure of any Disclosable Pecuniary Interest or non-pecuniary interest in issues being considered by the Council or its Committees.
- 4.2 Training and guidance on the Code has been provided to all Councillors and will be regularly updated. Members of the Planning Applications Committee must be particularly careful to ensure that they are familiar with the requirements of the Code. It is the personal responsibility of individual Councillors to ensure they comply with the Code and make all appropriate declarations. If in any doubt, Councillors should seek advice in advance of the meeting either from the Monitoring Officer or from the legal adviser to the Committee.
- 4.3 Although "Declaration of Interests" appears as a separate item on the Agenda for every meeting of the Planning Applications Committee, the Chairman normally asks whether any Councillor wishes to make a declaration of interest prior to the consideration of each individual planning application so that it is clear for which application interests are being declared. This does not, however, preclude a Councillor declaring any interest under the specific item on the Agenda.

## **5. LOBBYING OF COUNCILLORS**

- 5.1 It is a legitimate part of the planning application process for applicants, neighbours and other interested parties to approach Members. However, the rules of natural justice mean that planning applications should be determined in an open and fair manner and taking account of all relevant information and arguments. It is only at the meeting of the Committee that Members will have,

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<sup>1</sup> The RTPI Code of Professional Conduct requires that Planning Officers who are members of that institute do not make statements purporting to be their own, but which are contrary to their own professional opinion.

and be able to consider, all the relevant information and considerations pertaining to the application.

- 5.2 It is therefore important that to maintain the integrity both of individual Councillors and of the Council as a whole that all Members should: -
- (a) if lobbied, explain the potentially conflicting position they are in. When expressing an opinion, make clear that this opinion is provisional and that they will only be able to come to a final view at the Committee meeting after hearing all the relevant information and arguments
  - (b) avoid giving constituents planning advice, save in relation to general planning procedures, for example, how the constituent can make a representation on the application, how the decision will be made (delegated or Committee) etc.
- 5.3 Members of the Planning Applications Committee often receive correspondence from constituents, applicants and developers asking them to support or oppose a particular proposal. It is good practice for Councillors to forward a copy of the correspondence to the Head of Planning. Merely forwarding the correspondence in this way does not preclude the Councillor from being involved in the determination of the application.
- 5.4 Should a member of the Planning Applications Committee be directly lobbied by any third party, they should notify the Monitoring Officer if they feel they have been exposed to undue or excessive lobbying. They should also indicate at the appropriate stage of the Committee proceedings that they have notified the Monitoring Officer of this lobbying.

## **6. LOBBYING BY COUNCILLORS**

- 6.1 If a Councillor becomes a member of, leads or represents an organisation whose primary purpose is to lobby the promotion or opposition to planning proposals, they may have an interest and may have to withdraw from the meeting during consideration of that proposal.
- 6.2 A Councillor should not lobby fellow Councillors excessively regarding their concerns or views nor attempt to persuade them that they should decide how to vote in advance of a meeting at which any planning decision is to be taken.

## **7. MEETINGS**

- 7.1 Officers frequently hold meetings with applicants and objectors to discuss applications. These are part of the normal planning process but are, and must be clearly stated to be, without prejudice to the professional recommendation that may be made to the Committee and the decision of the Committee. Councillors will not normally attend such meetings.

- 7.2 If a Councillor wishes to arrange a meeting with Planning Officers for themselves and/or a small number of constituents about a planning application, this will be arranged at the Council Offices.
- 7.3 Officers will not normally attend public meetings unless their attendance has been agreed with the Head of Planning and representatives of both the applicant and objector are given the opportunity to be present. Members of the Committee and Ward Councillors will be advised of any public meeting either organised by Officers or which Officers have agreed to attend.

## **8. PRESENTATIONS ON LIKELY DEVELOPMENT PROPOSALS**

- 8.1 The Council may itself organise presentations to keep Councillors informed generally on matters which appear to have or are likely to have strategic importance for the Borough. At such presentations, Councillors should maintain an impartial role, listening to what is being said and asking questions but not expressing an opinion.
- 8.2 Councillors may sometimes be invited to attend presentations/open days etc on likely development proposals by developers. Councillors should consider the appropriateness of accepting such invitations and give consideration to how their attendance might be perceived. Councillors should notify the Monitoring Officer of attendance at any such event.

## **9. OFFICER REPORTS TO COMMITTEE**

- 9.1 All applications requiring a decision by the Planning Applications Committee will be the subject of full written reports from the Head of Planning or such other planning officer acting under delegated authority . The report will provide a clear outline of the site history, the relevant Development Plan policies, the response of consultees and the substance of objections. The report will include a clear recommendation with a technical appraisal justifying it. Any objections or other relevant issues arising after the Agenda has been published will be the subject of an oral report to the Committee at the meeting.

## **10. COMMITTEE SITE VISITS**

- 10.1 Committee site visits are fact-finding exercises which allow the Planning Applications Committee to make a more informed decision than would otherwise be possible from reading the Officer's report and considering the views expressed at the Committee meeting. They are not part of the formal consideration of any application and therefore public rights of attendance and speaking do not apply.
- 10.2 The Committee has adopted a procedure for site visits and this is set out at **APPENDIX A**.

## **11. PUBLIC PARTICIPATION AT THE PLANNING APPLICATIONS COMMITTEE**

- 11.1 Members of the Planning Applications Committee must not allow members of the public, applicants, agents or public speakers to communicate with them during the Committee meeting either orally or in writing, other than under the adopted public participation scheme, as this may give the appearance of bias to other observers.
- 11.2 The Public Speaking Rules at Part 4 of the Constitution provide the framework for public participation at the Planning Applications Committee.

## **12. PLANNING COMMITTEE DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

- 12.1 From time to time, members of the Committee will disagree with the professional advice given by Officers and may determine an application contrary to that advice. When this happens Councillors must clearly express the planning reasons for their decision, such that a person observing the meeting would understand why the recommendation has not been followed. Officers will be given an opportunity to explain to the Committee any planning and / or legal implications arising from their intended decision before the decision is confirmed.
- 12.2 The reasons given by the Committee for the decision will be recorded in the minutes of the meeting and the Head of Planning will be asked to finalise the wording of the decision notice, normally after consultation with the Chairman and Vice Chairman of the Committee.

## **13. APPEALS AGAINST COUNCIL DECISIONS**

- 13.1 Generally, Officers will organise and appear as witnesses at planning appeals on behalf of the Council. Officers will have overall management and responsibility for the conduct of planning appeals. In giving evidence, Officers will present the best possible case on behalf of the Council, whilst complying with the RTPI Code of Professional Conduct\* and taking into account cost/benefit analysis. In some circumstances it may be necessary to appoint consultants to appear on behalf of the Council; for example, where the Committee has decided an application contrary to the Officer recommendation. Where the overall strategy for a planning appeal is contrary to, or unsupportive of, the Planning Application Committee's decision in the first instance, the Head of Planning must consult with the Chairman and the Vice Chairman of the Planning Applications Committee and relevant ward Councillors.
- 13.2 If a Councillor intends to make representations to the Planning Inspectorate on any appeal either in writing or in person at any hearing / public inquiry, they should advise the Head of Planning and indicate whether these representations will be in support of the Council's case.

## **14. COUNCILLOR AND OFFICERS AS APPLICANTS**



- 14.1 Where a Councillor is the (prospective) applicant for planning permission, he or she must appoint a professional agent to act on their behalf in dealing with Planning Officers. Whilst this might appear to place an undue financial burden on the Councillor, regard should be had to Members' Code of Conduct at Part 5 of this Constitution.
- 14.2 Any application submitted by a serving Councillor, or a partner as defined in the Members' Code of Conduct, or persons who were Councillors within the previous 4 years, will not be dealt with by Officers under delegated powers but will be the subject of a decision by the Planning Applications Committee. The Committee will be advised that that the application has been submitted by a Councillor, or former Councillor, and will also be advised whether the application is one that would normally have been dealt with under the Scheme of Delegation.
- 14.3 In the case of serving Councillors, the Monitoring Officer should be notified by the Councillor concerned in writing of the application no later than the date of its submission.
- 14.4 The same rules apply in respect of any officer, or a partner as defined in the Members' Code of Conduct, who is currently employed by the Council or who has been employed by the Council within the previous 4 years.

## **15. TRAINING**

- 15.1 Councillors may not sit on the Planning Applications Committee unless they have attended at least the annual mandatory planning training prescribed by the Council. Where the Full Council determines a major planning application, all Councillors must have attended the prescribed planning training as determined by the Head of Planning.
- 15.2 Suitable additional training opportunities will be arranged at regular intervals by the Head of Planning and/or the Monitoring Officer.

## **16.0 REVIEW**

- 16.1 It is important that decisions, and the decision-making process, are regularly reviewed to improve the quality and consistency of decision making, thereby strengthening public confidence. Arrangements will normally be made for Councillors to visit, on an annual basis, a sample of implemented planning permissions to assess the quality of the decision. These visits will include a range of developments (major, minor, departures, upheld appeals, listed building works etc). The Committee will also receive an annual review of appeal decisions from the Head of Planning.

## **APPENDIX A**

### **COMMITTEE SITE VISITS**

#### **General**

1. The purpose of a site visit is to ascertain facts and to ask questions of the planning officers, not to debate the merits of the planning application. Members, at the site visit, must not indicate which way they intend to vote at the Planning Applications Committee meeting.
2. The applicant will be notified in advance in writing of the time and date of the visit and of any requirements in respect of the site visit (such as the pegging out of the development proposal). If applicants, or their agents, attend for site access purposes they will be advised at the start of the site visit that the purpose of the visit is to gather information and that they may not address the meeting or individual councillors.
3. The public does not have a right of attendance at the site, other than from public vantage points, and cannot address the meeting or individual councillors.
4. A Planning Officer will accompany Councillors to explain the development proposal and to answer any questions. Councillors should only allow themselves to be addressed by Officers or by fellow Councillors. Where a Councillor is approached by any other person, they should inform the Planning Officer present.
5. The Chairman of the Committee, or his representative, must maintain control over the conduct of each site visit which, whilst not part of a formal meeting of the Committee, will be conducted as a single meeting and in an orderly fashion.
6. Councillors must not normally enter planning application sites except on the formal Committee Site Visit. If a Councillor considers that a personal site visit is essential, they should contact the Head of Planning, who may, in exceptional circumstances, make appropriate arrangements. Councillors must at all times remember that to enter any land without the consent of the landowner is a trespass. This does not preclude the Councillor from viewing the application site from any public vantage point.

#### **Site Visits Prior to Consideration of an Application by the Planning Applications Committee**

7. Members of the Planning Applications Committee and local ward members may make a request for a site visit upon receipt of the agenda. Requests must be made in writing, explaining the reason for the request, to the Development Manager with a copy forwarded to the Head of Planning and the Democratic Services Officer by 4 pm four clear working days before the Planning Applications Committee meeting.

### **Applications Deferred by the Planning Applications Committee for a Site Visit**

8. Only in exceptional circumstances will a request for a Committee Site Visit made at the Planning Applications Committee meeting, outside the above procedure, be entertained by the Committee.
9. Where the Planning Applications Committee has commenced the consideration of an item but decides to defer an application because it considers that a site visit is necessary in order for it to determine the application, only those members who have attended that site visit will be able to vote in relation to that application at the next meeting.
10. A site visit requested of the Planning Applications Committee will be arranged at a time to ensure that sufficient members are available to attend the site so that it is possible to achieve a quorum at the next meeting.

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## **PART 5 - CODES AND PROTOCOLS**

### **SECTION E**

#### **MONITORING OFFICER PROTOCOL**

##### **GENERAL INTRODUCTION TO STATUTORY RESPONSIBILITIES**

1. The Monitoring Officer is a statutory appointment pursuant to section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged in Surrey Heath Borough Council.
2. The current responsibilities of the Monitoring Officer role rest with the Head of Legal Services, who undertakes to discharge his statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. In doing so, he will provide appropriate advice to Members so as to protect and safeguard, so far as is possible, Members and Officers, whilst acting in his official capacities.
3. A summary list of the statutory responsibilities appears in the table annexed to this document. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:-
  - a) complying with the law of the land (including any relevant Codes of Conduct);
  - b) complying with any general guidance issued, from time to time, by the Council and/or advice of the Monitoring Officer;
  - c) making lawful and proportionate decisions; and
  - d) generally, not taking action that would bring the Council, his offices or professions into disrepute.
4. The Monitoring Officer duties also encompass responsibility for the Bisley, Chobham, West End and Windlesham Parish Councils.
5. The Monitoring Officer will appoint the Deputy Monitoring Officer(s) in accordance with Section 5 of the Local Government and Housing Act 1989. The Deputy Monitoring Officer(s) will support the Monitoring Officer generally and perform the functions of the Monitoring Officer where he is unable to act. The Monitoring Officer will keep him or her briefed on any relevant issues that they may be required to deal with in the absence of the Monitoring Officer. The responsibility of discharging the functions of Monitoring Officer is a personal one but he will be assisted from time to time by other staff.

## WORKING ARRANGEMENTS

6. Having excellent working relations with Members and Officers will assist in the discharge of the statutory responsibilities on the Monitoring Officer and ensure that the Council operates lawfully. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and Officers must, therefore, cooperate with the Monitoring Officer (and his staff) to discharge the Council's statutory and discretionary responsibilities.
7. The following arrangements and understandings between the Monitoring Officer, Members and Chief Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-
  - (a) be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
  - (b) have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Leader/Executive, Portfolio Holder, Committee meetings and/or Management Board/(or equivalent arrangements);
  - (c) have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, the Leader/Executive, Portfolio Holder, Committee meetings and/or Management Board/(or equivalent arrangements);
  - (d) in carrying out any investigation(s) have unqualified access to any information held by the Borough Council and to any Officer who can assist in the discharge of his functions;
  - (e) ensure the other statutory officers (Head of Paid Service and the Executive Head of Finance) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;

- (f) meet regularly with the Leader of the Council, Head of Paid Service and the Executive Head of Finance to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
  - (g) report to the Council, through the Governance Working Group, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service and Executive Head of Finance;
  - (h) have sufficient resources to enable him to address any matters concerning his Monitoring Officer functions and make a report to the Council, as necessary on the staff, accommodation and resources needed to discharge his statutory functions;
  - (i) have a special relationship of respect and trust with the Mayor, Deputy Mayor, the Leader and other Group Leaders and the Executive and the Chairmen of Standards Hearing and Determination, Regulatory and Scrutiny Committees with a view to ensuring the effective and efficient discharge of Council business;
  - (j) develop, where necessary, effective working liaison and relationship with, the External Auditor and the Local Government Ombudsman.
  - (k) maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;
  - (l) in consultation, as necessary, with the Leader/Executive, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
  - (m) make arrangements to ensure effective communication between his office and the Clerk to the Parish Council's on standards issues;
  - (n) be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues inclusive;
8. The Monitoring Officer is also available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Standing Orders, policy framework, terms of reference, scheme of delegations etc.).

8. To protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role and to ensure the effective and efficient discharge of this Protocol, the Executive Head of Finance will ensure adequate insurance and indemnity arrangements are in place.



## SUMMARY OF MONITORING OFFICER FUNCTIONS

	Description	Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 Local Government and Housing Act 1989
2	Report on any maladministration or injustice where ombudsman has carried out an investigation.	Section 5 Local Government and Housing Act 1989
3.	Appointment of Deputy(ies)	Section 5 Local Government and Housing Act 1989
4	Report on resources	Section 5 Local Government and Housing Act 1989
5	Receive copies of whistle blowing allegations of misconduct	Whistle blowing Code
6	Investigate and report on any misconduct	Section 28 Localism Act 2011
7	Establish and maintain registers of members' interests.	Section 29 Localism Act 2011
8	Advice to members on interpretation of Code	Members Code of Conduct at Part 5
9	Key role in promoting and maintaining high standards of conduct by members	Section 27 Localism Act 2011
10	Ethical framework functions in relation to parish councils	Chapter 7 Localism Act 2011
11	Advice on vices issues, maladministration, financial impropriety, probity and policy framework and budget issues to all members	DCLG guidance
12	Deal with any Complaints against Borough and Parish Members	Section 28 Localism Act 2011
13	Advise on any indemnities and insurance for members / officers	Regulations under LGA 2000

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## **PART 6**

# **MEMBERS' ALLOWANCES SCHEME**

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# PART 6 - MEMBERS' ALLOWANCES SCHEME

## Introduction

1. This Scheme of Members' Allowances is made in accordance with the provisions of the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended). The Council, on 26 February 2020, having considered the recommendations of the Independent Remuneration Panel, adopted the following scheme for the payment of Members' allowances.

## Indexation

2. The basic allowance, Special Responsibility Allowances, and Dependants' Carers' Allowance will be increased in line with staff pay awards until 2024, at which time an Independent Remuneration Panel will review the Scheme.

## Basic Allowance

3. A basic allowance of £5,288 is payable to all Members of the Council.

## Special Responsibility Allowances

4. Special Responsibility Allowances are calculated as a percentage of the basic allowance. The Leader's Special Responsibility Allowance is 260% of the basic allowance. Other Special Responsibilities are then valued as a percentage of the Leader's allowance.
5. Special responsibility allowances are payable to those Members holding the positions identified below, in line with paragraphs 6 and 7 of this scheme, in addition to the basic allowance:

<b>Role</b>	<b>Tier</b>	<b>Allowance (April 2020)</b>
Leader of the Council	Tier 1	£13,749
Deputy Leader of the Council	Tier 2	£8,249
Mayor	Tier 3	£5,500
Deputy Mayor	30% of the Mayor's SRA	£1,650
Political Group Leader with 10% or more of the Council's membership	Tier 4	£4,812
Political Group Leader with up to 10% or more of the Council's membership	Tier 5	£3,712
Member of Executive	Tier 3	£5,500
Chairman of Scrutiny/Select Committee	Tier 5	£3,712

Chairman of Planning Applications Committee	Tier 4	£4,812
Chairman of the Licensing Committee	Tier 5	£3,712
Chairman of the Audit & Standards Committee	Tier 5	£3,712
Chairman of the Employment Committee	Tier 5	£3,712
Vice-Chairman of Planning Applications Committee	50% of the Chairman of Planning Applications Committee SRA	£2,640

6. No councillor should be entitled to receive at any time more than one Special Responsibility Allowance
7. The maximum number of SRAs payable at one time does not exceed 50% of Council Members (17 Members).

### **Approved Councillor Duties**

8. As general guidance, Members will be eligible for travelling and subsistence allowances or carer's allowances when there has been attendance at meetings of the Council, its Executive, committees and working groups of which a councillor is a member. Other meetings authorised in advance by the Executive Head of Corporate, the Executive or the relevant committee, such as site visits, are also eligible together with certain other meetings and seminars etc. which are considered by the Executive Head of Corporate to be of strategic importance.
9. Examples of activities regarded as approved duties for Members receiving a special responsibility allowance are as follows:
  - (i) Briefing of political group leaders by Chief Executive or other senior officers.
  - (ii) Chairmen and vice-chairmen briefings for committee meetings.
  - (iii) Briefings by senior officers on issues, as chairmen/vice-chairmen or portfolio holder.
10. Additionally, where a Member has been appointed as the Council's representative on an outside body, travelling expenses, where attendance has involved a journey or journeys totalling in excess of 3 miles, will be met. If a Member becomes a representative of that outside organisation on a further body, the similar travelling expenses will be met.
11. All Members will be entitled to claim travelling expenses on the following basis:

- (i) if a Member is permanently resident outside the Borough, he or she may use that address as the starting point for the journey, save that Members may only claim travelling costs from the Borough boundary in respect of meetings held at Surrey Heath House (or any other “official” location);
- (ii) if a Member temporarily resides outside the Borough, subject to the prior agreement of the Executive Head of Corporate, after consultation with the Leader of the Council, that address may be used as the basis for travelling expense claims for the duration of the period of temporary residence;
- (iii) if a Member works outside the Borough but lives within it, return travelling expenses for meetings at Surrey Heath House may only be claimed to and from the Members’ home.

### **Dependants’ Carers’ Allowances**

12. Members may claim dependant carer’s allowances as follows:

Childcare – Up to £11.00 per hour, subject to the proof of payment being submitted with all claims

Carers of Dependents – based on cost, subject to the proof of payment being submitted with all claims and evidence that this type of care is required.

13. Dependants’ Carers’ Allowances are eligible to be paid in connection with any Approved Duties.

### **Pensions**

14. No Member shall be entitled to a pension in accordance with a scheme made under Section 7 of the Superannuation Act 1972.

### **Renunciation**

15. Members may elect to forgo all or part of any entitlement to an allowance by giving notice in writing to the Chief Executive.

### **Payments**

16. All payments to Members of allowances will be made on the 20<sup>th</sup> of each month, or preceding working day; the payment of basic allowance and special responsibility allowances will be in equal monthly instalments over the period.

### **Suspension of Allowances**

17. If a Member, who is in receipt of an allowance or special responsibility allowance is suspended or partially suspended from office, all allowances

pertaining to the role from which the councillor is being suspended shall be withheld for the period of suspension or partial suspension.

### **Subsistence Allowances**

18. The amounts payable to Members in respect of subsistence will be the amounts which are payable to officers of the Council for subsistence undertaken in the course of their duties.
19. Subsistence allowances are eligible to be paid in connection with any Approved Duties.

### **Travelling Allowances**

20. The amounts payable to Members in respect of car and motorcycle mileage payments will be at the maximum rate per mile that can be paid tax-free as defined by HM Revenue and Customs or the lower rate paid to officers of the Council, whichever is the lesser.
21. The amounts payable to Members in respect of taxi travel, travel by air and European Travel, and the terms and conditions of those payments, will be as those set for officers of the Council

### **Parental Leave**

22. The following provisions are provided for parental leave for councillors:
  - (i) All Councillors shall continue to receive their Basic Allowance in full for a period up to six months in the case of absence from their councillor duties due to leave relate to maternity, paternity, adoption shared parental leave or sickness absence
  - (ii) Councillors entitled to a Special Responsibility Allowance shall continue to receive their allowance in full for a period of six months, in the case of absence from their Councillor duties due to leave related to maternity, paternity, adoption, shared parental leave or sickness absence
  - (iii) Where for reasons connected with sickness, maternity leave, adoption leave, paternity leave or shared parental leave a councillor is unable to attend a meeting of the Council for a period of six months, a dispensation by Council can be sought in accordance with Section 85 of the Local Government Act 1972
  - (iv) If a replacement to cover the period of absence under these provisions is appointed by Council or the Leader (or in the case of a party group position the party group) the replacement shall be entitled to claim a Special Responsibility Allowance pro rata for the period over which the cover is provided;



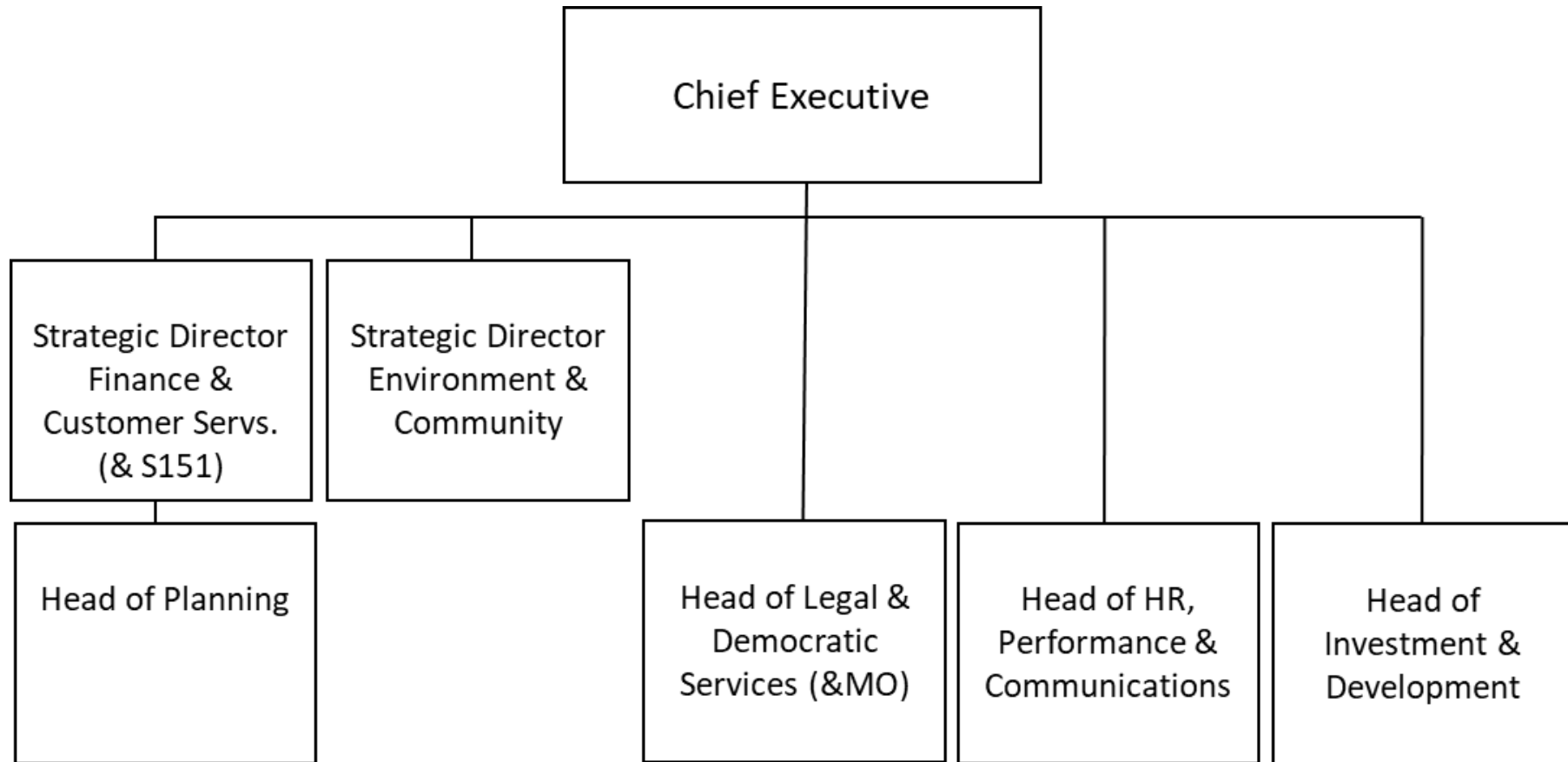


## **PART 7**

# **MANAGEMENT STRUCTURE**

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## PART 7 - MANAGEMENT STRUCTURE



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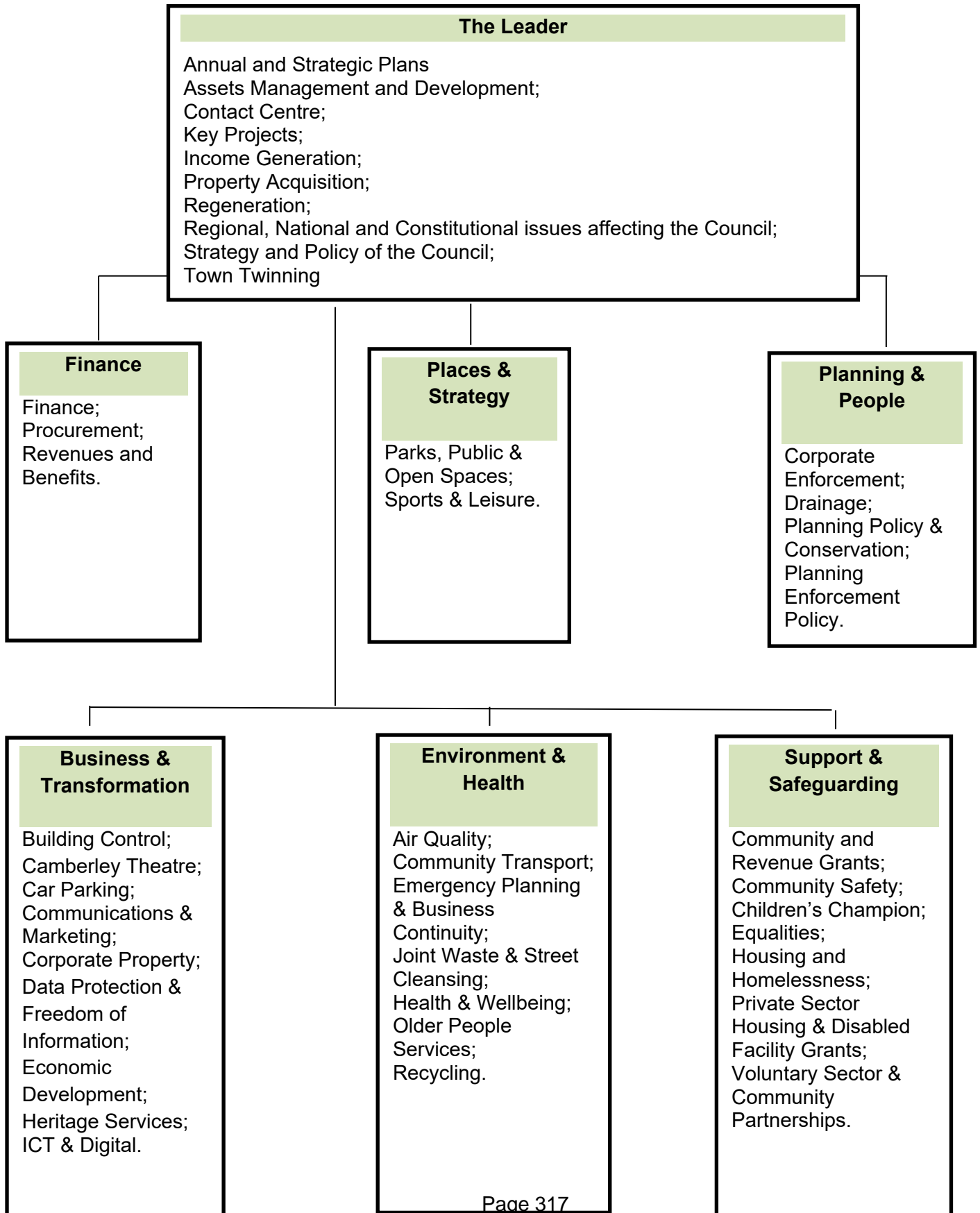
## **PART 8**

# **EXECUTIVE PORTFOLIOS**

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# Part 8 of the Constitution

## The Leader and Executive Portfolios



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## **PART 9**

# **DOCUMENTS WHICH SUPPORT THE CONSTITUTION**

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## **PART 9**

### **LIST OF DOCUMENTS WHICH SUPPORT THE CONSTITUTION**

In addition to the policies and protocols included within part 5 of the Constitution, the following documents have been adopted and identified as supporting the Constitution:

- (A)** Anti- Fraud and Corruption Strategy
- (B)** Guidance on Publicity and Conduct for Councillors and Officers prior to an Election
- (C)** Local Code of Corporate Governance
- (D)** Arrangements for Dealing with Allegations of Misconduct
- (E)** Protocol for Appointments/ Nominations to Outside Bodies
- (F)** Social Media Protocol for Councillors
- (G)** Sponsorship Arrangements Protocol
- (H)** Standards Hearing and Determination Committee Meeting Procedures
- (I)** Protocol for the Recording of Council, Executive and Committee meetings
- (J)** Protocol for the Registration of Residents' Associations, Business Associations and Amenity Societies for the purpose of Public Speaking at Planning Applications Committee
- (K)** Civic and Ceremonial Protocol.

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## ANTI-FRAUD AND CORRUPTION STRATEGY

Surrey Heath Borough Council has a duty to protect public funds under its controls against the risk of fraud or corruption.

In administering its responsibilities the Council is committed to high standards of accountability, openness and integrity.

This commitment will result in the desired outcome of creating a zero tolerance culture, promoting high ethical standards, encouraging prevention, promoting detection and formalising the procedures for investigation. This will assist in minimising the opportunity for fraud and corruption to exist within the Council's systems. This framework is in line with the strategic aims and objectives of the Council in relation to preventing crime and ensuring value for money.

**Fraud is defined as:**

The intentional distortion of financial statements or other records, by an individual or organisation carried out to deliberately conceal the misappropriation of assets for gain.

**Corruption is defined as:**

The offering, giving, soliciting or acceptance of an inducement, or reward which may influence the action of an individual.

**Bribery is defined as:**

The offering, giving, receiving, or soliciting of something of value for the purpose of influencing the action of an official in the discharge of his or her public or legal duties.

This strategy should be read in conjunction with the Anti-Bribery Policy, and Code of Conduct for Officers can be found at :

<https://intranet.surreyheathonline.gov.uk/hr/policies-and-procedures>



## **1. Introduction**

- 1.1 Surrey Heath Borough Council in managing its responsibilities is determined to protect itself against fraud and corruption both from within the Council and from external sources. This Anti-Fraud and Anti-Corruption Strategy is designed to prevent and detect corruption and fraud, and to identify methods of investigation and correction.
- 2.1 To deliver the Council's corporate strategy, we need to maximise the financial resources available to the Council. In order to do this, we must eliminate fraud and misappropriation and effectively promote an anti-fraud culture. The Council also recognises the role of external bodies, such as the National Audit Office (including External Audit and Inspection), Local Government Ombudsman, Standards Hearing and Determination Committee, HM Revenue & Customs scrutinising the Council's activities.
- 3.1 Our strategy to deal with fraud, corruption and misappropriation is built upon seven key concepts: Culture, Deterrence, Prevention, Detection, Investigation, Sanction and Redress.

## **2. Culture**

- 2.1 Our strategy to reduce fraud is based on deterrence, prevention, detection, investigation, sanctions and redress within an over-riding anti-fraud culture. We will promote this culture across all our service areas and within the community as a whole. One pound lost to fraud means one pound less for public services.
- 2.2 The Council requires all Members and employees to lead by example in ensuring that the Council complies with the law and the Council's own regulations, procedures, and practices.
- 2.3 The Council's elected Members and employees are an important element in the stance against fraud and corruption and are expected to maintain the highest possible standards of conduct in public life. These standards are set out in the Council's adopted Code of Conduct for Members in respect of Members and the Council's Code of Conduct for Officers.
- 2.4 Employees who are members of a Professional Institute are further expected to follow the relevant codes of conduct laid down by that Institute.
- 2.5 The Council takes a holistic approach to anti-fraud measures. Fraud prevention and system security is an integral part of the development of new systems and on-going operations. Managers will consider the



fraud threats and take advice where appropriate when implementing any financial or operational system.

- 2.6 The holistic approach extends to the investigation of allegations and the prevention of fraud through system reviews. The Internal Audit and Corporate Enforcement Team provide the Council's fraud investigation and system audit functions. They employ a multi-disciplinary approach to the deterrence, prevention, detection and investigation of fraudulent activity. In addition, the team are free to work with other agencies in the pursuance of the Council's anti-fraud aims.

### 3. **Deterrence**

- 3.1 The Council takes ultimate responsibility for the protection of our finances. In turn, our managers have a duty to protect their service area from losses due to fraud and irregularity and are responsible for implementing proper internal controls.

- 3.2 The corporate framework, which underpins the operation of the Council, has a number of facets that exist to protect the Council against losses from fraud and act as a deterrent. Key elements include:

- An established Standards Hearing and Determination Committee and an adopted Code of Conduct for Members.
- The Constitution, financial regulations rules, contract procedure rules, standing orders and the scheme of delegation.
- Internal control reviews by Internal Audit.
- A Whistle-blowing policy and procedure.
- Anti-Bribery Policy.
- Policy on the Regulation of Investigatory Powers Act (RIPA)
- Information Governance strategy and policy.
- Complaints procedure.
- Fraud Response Plan.
- The promotion of awareness of anti-fraud and corruption issues reinforced by training and publicity.



- Effective recruitment procedures, disciplinary procedures and standards of conduct for officers.

#### **4. Prevention**

- 4.1 The Council's Financial Regulations, Standing Orders on Contracts, Codes of Conduct and any relevant practice and procedure documents are an important protection against fraud and corruption. Managers must ensure that they are complied with at all times. All of the Council's employees are expected to know and understand the relevant Financial Regulations and Standing Orders which apply to areas of their work.

#### [Financial Regulations | Intranet](#)

- 4.2 The Council recognises that an important measure in the prevention of fraud and corruption in its employees is to take effective steps to establish the integrity and propriety of all new employees. Human Resources policies are in place which establish as far as possible the previous record of potential employees in terms of their propriety and integrity. Where necessary, officers will undertake checks with the Disclosure and Barring Service (DBS)
- 4.3 The Council has in place systems and procedures, which incorporate efficient and effective internal controls, including adequate separation of duties, to ensure that as far as possible, errors and improprieties are prevented. Under Financial Regulations, service managers are fully accountable to the Section 151 Officer for the financial management of their services.
- 4.4 The Council will ensure that an adequate and effective internal audit is undertaken of the Council's systems and processes. The Internal Audit team will assist managers in implementing proper controls and correcting any control failures identified by audit work.

#### **5. Detection**

- 5.1 It is the responsibility of the Council's Executive Heads and managers to prevent and detect fraud and corruption. It is, however, often the alertness of staff, Members and the public to the possibility of fraud and corruption that enables detection to occur and appropriate action to take place when there is evidence that fraud or corruption may have been committed or is in progress
- 5.2 The Council actively encourages staff to report colleagues who are suspected of committing fraud. All members of staff, the public and Members are encouraged to contact the Corporate Enforcement Manager with any suspicion of fraud, corruption, financial malpractice





or the misuse of official position. The Council operates a Whistle-blowing Policy and Procedure setting out the protection offered by the Public Interest Disclosure Act 1998 to employees and third parties.

- 5.3 All internal audit reviews will have regard to the possibility of fraud. Internal Audit will also undertake a series of proactive anti-fraud audits in high risk areas with a view to uncovering fraud and misappropriation.
- 5.4 We will utilise all methods available to detect fraud. This includes data matching, open source research, surveillance and intelligence led investigation. We will also actively participate in the National Audit Office National Fraud Initiative (NFI).

## **6. Investigation**

- 6.1 The Council has adopted the principle (contained in Financial Regulations) that investigations into fraud and corruption will be undertaken under the supervision of the Corporate Enforcement Manager. Managers must not attempt to carry out their own investigations.

### Members

- 6.2 Allegations of fraud and corruption made against our Members will be fully investigated in accordance with the provisions of the Localism Act 2011 and any subsequent statute or codes of practice. The Standards Hearing and Determination Committee is responsible for the initial assessment of any complaints that Members may have breached the Code of Conduct for Members. The Council will fully assist the Standards Hearing and Determination Committee or other law enforcement agencies with any investigation concerning a Member.
- 6.3 Any concerns that a Member may have breached the Code of Conduct will be referred immediately to the Monitoring Officer. The Monitoring Officer may utilise the Corporate Enforcement Team or any other appropriate person for the purposes of any investigation.

### Staff

- 6.4 The Audit and Corporate Enforcement Team is charged by the Head of Paid Service with leading the Council's fight against fraud. The teams are free to examine all allegations of fraudulent, financial misconduct, corruption and other behaviour affecting the finances or integrity of the Council.



- 6.5 The Audit and Corporate Enforcement Team will investigate any allegation that may have a direct or indirect impact on the Council's finances. Staff have a duty to assist the Council with any matter under investigation. Failure to assist with an investigation may be considered as a breach of trust or failure to comply with financial regulations.

#### Contractors and partners

- 6.6 Our partners will provide full access to their financial records, as they relate to our finances, and their staff will be required to assist fully with any investigation. These conditions will be included in any contract terms or agreements. Personnel records of any person suspected of being involved in fraud will be made available to the Corporate Enforcement Manager.

### **7. Sanctions and Redress**

- 7.1 The Council will utilise its own Standards Hearing and Determination Committee to the fullest extent to promote high standards and regulate the conduct of our Members and will take appropriate action if a Member is in breach of the Code of Conduct.
- 7.2 We will seek the most appropriate sanctions against staff who commit fraud against the Council, its clients or the public purse. This will include disciplinary action, prosecution and civil proceedings.
- 7.3 Employees found guilty of gross misconduct at disciplinary for offences of fraud, theft, serious financial malpractice, using their position for personal gain or for the gain of others, may be subject to summary dismissal. This applies to employees who improperly benefit from the Council as a corporate body and not just those who steal funds from their own unit. It also applies to employees who defraud or steal from the Council's clients. We will also take disciplinary action against staff who commit fraud against other Local Authorities, or any other agency administering public funds.
- 7.4 We will seek the strongest available sanctions against contractors in respect of their staff who commit fraud against the Council or who commit fraud against the public purse. We will request that the organisation takes appropriate disciplinary action against the individual and / or we will require that they are removed from the Council's contract. The ability to request removal of staff will be written into contract terms.
- 7.5 It is likely that all cases involving criminal activities will be reported to the police. The decision to advise the police will be taken by the Chief Executive and the Section 151 Officer.



## **8. The public and external organisations**

- 8.1 Members of the public receive financial assistance and benefits from the Council through a variety of sources. These include Housing Benefit and Council Tax Reduction.

From 1<sup>st</sup> October, 2015 Surrey Heath Borough Council's power to investigate Housing Benefit fraud were rescinded and responsibility transferred to the Department for Work and Pensions. Any suspected fraud relating to Welfare benefits are now referred to the Single Fraud Investigation Service (SFIS) Members of the Public can report suspected Housing Benefit fraud on online at: [www.go.uk/report-benefit-fraud](http://www.go.uk/report-benefit-fraud) or the National Benefit Fraud Hotline on 0800 854 440.

The Council Tax Reduction Scheme is a locally funded scheme and any allegations of suspected fraud involving Council Tax will be investigated by the Corporate Enforcement Team.

Allegations of Tenancy Fraud will be investigated by the Corporate Enforcement Team in conjunction with the appropriate Registered Social Landlord (RSL). Accent Group is the largest RSL within the Surrey Heath area.

## **9. Conclusions**

- 9.1 The Council has in place a clear Corporate Governance framework to fight against fraud and corruption. These arrangements will keep pace with future developments or techniques for preventing and detecting such activities.
- 9.2 The Council maintains a continuous review of such arrangements and through the Section 151 Officer and Head of Legal Services will ensure regular reviews of Financial Regulations, Standing Orders on Contracts, Codes of Conduct, Financial Procedures and Audit arrangements.



Document revisions

Name of Author	Date Agreed	Document revised (date)	Details of revisions made	Version
J. Greenfield	10.07.13			1
J. Greenfield	2.11.18		Revisions relate to revised team titles, National Audit Office, Housing Benefit and Council Tax Reduction	2

# Documents which support the Constitution

## Part B

### Guidance on Publicity and Conduct for Councillors and Officers Prior To an Election

#### 1. Introduction

- 1.1 During the period prior to the elections, the Council must carry on operating and providing services as normal. However, there are specific rules that cover the pre-election period which may impact on relationships with businesses, publicity and the use of premises by candidates.
- 1.2 The principles underlying the behaviour of councillors and officers during this time are an extension of those that apply at all other times. These are set out in the Members' Code of Conduct, Code of Conduct for Officers and the Member and Officer Protocol.
- 1.3 Members should discuss any issues or concerns with their Group Leader, and/or the Agent for their party handling the election campaign. The Monitoring Officer or the Returning Officer may also be consulted.
- 1.4 The pre-election period is the period between the notice of election and the election itself and is usually about 6 weeks.
- 1.5 This Guidance relates to the pre-election period for all types of elections.

#### 2. The Returning Officer

- 2.1 The Returning Officer has the authority to direct candidates and/ or parties, should they breach this protocol or the Code.

#### 3. Publicity

- 3.1 Publicity is defined by Section 6 of the Local Government Act 1986 as "any communication, in whatever form, addressed to the public at large or to a section of the public. Publicity includes leaflets, press releases, photos, posters and sponsorship events, and can be in paper or electronic form.
- 3.2 Publicity produced by the Council is restricted, at all times, by the Local Government Act 1986 (as amended) and by the Code of Practice produced as a result of the Act (see paragraph 3 below). However, in the run up to an election, further rules apply.
- 3.3 There are specific rules relating to election notices and literature published by agents to promote an election campaign. Guidance is issued to the agents and candidates at the appropriate time by the Electoral Services Manager.

#### 4. The Local Government Act 1986

- 4.1 Section 2 of the Local Government Act 1986 makes it clear that, at all times, a local authority should not publish any material which appears to be designed to have an effect on public support for a political party. This includes:
  - (a) the content and style of the material;
  - (b) the time and circumstances of publication;
  - (c) the likely effect of publicity on people;

- (d) whether the material promotes or opposes a point of view which is identifiable as the view of one political party but not another;
  - (e) references to a political party or to people identified with a political party.
- 4.2 The Council is also not allowed to give financial or other assistance to other bodies to enable them to publish material that the Council may not publish.

## **5. Code of Recommended Practice on Local Authority Publicity - Guidelines Specific to Pre-Election Periods**

- 5.1 Much of the Code, which applies at all times, increases in importance before an election. The Code states that:

*The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve members likely to be standing for election.*

## **6. Misleading Publicity Or Media Coverage**

- 6.1 Where there are factual inaccuracies in media or other publicity issued by parties or candidates contesting the election, these may be corrected by the Council. However, this has to be done with due regard to Local Government Act 1986 and the Code, as set out in paragraphs 4 and 5. Only the specific inaccuracies identified in the publicity can be corrected.
- 6.2 The Chief Executive, when deciding whether to issue a correction, will have regard to the legal need to correct the inaccuracy.

## **7. Photographs**

- 7.1 In the pre-election period photographs should be used carefully. The Council's crest or logo must not be used in election campaign material.

## **8. Decision-Making**

There is no statutory restriction on the Council's decision-making, meetings, or political debate during the election campaign. It is "business as normal".

- 8.1 However, there may be other factors which may limit the decisions to be taken. In particular, the consideration of any matters which may be politically contentious should be avoided. The profile of issues will be increased in this period and could affect effective decision-making.
- 8.2 For practical reasons, the Council may decide, during the election campaign, to restrict the number of meetings and/or hold no meetings in the final weeks of the campaign.

### **External Consultation**

- 8.3 Officers should ensure, where possible, that consultations are not carried out during the pre-election period.

### **9. Use of Premises**

- 9.1 With the exception of the use of rooms for meetings for members of the public (see paragraph 11), candidates must not visit council premises for electioneering purposes, such as canvassing support from members of the public or staff, or for photo opportunities.

### **Entitlement of Candidates to Use Rooms**

- 9.2 Under the Representation of the People Act 1983, candidates are entitled to use certain rooms free of charge for election meetings, subject to certain conditions. Section 95 covers holding public meetings relating to parliamentary elections and Section 96 for local elections. Further advice can be obtained from the Returning Officer.

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# Documents which support the Constitution Part C

## SURREY HEATH BOROUGH COUNCIL

### LOCAL CODE OF CORPORATE GOVERNANCE

Surrey Heath Borough Council is committed to ensuring that its affairs are managed in such a way as to achieve the highest standards of effective corporate governance. To this end, the Council has established structures, procedures and systems of control to achieve and maintain this objective.

The Council commits to the three primary principles of good corporate governance and will continually strive to ensure that they underpin the delivery of services to the public:

- **Openness and Inclusivity** - being open through genuine consultation with stakeholders and providing access to full, accurate and clear information and seeking to ensure that all stakeholders and potential stakeholders have the opportunity to engage effectively with the decision making processes and actions of the Council.
- **Integrity** - being honest, selfless and objective (including both straightforward dealing and completeness) and following high standards of propriety and probity in the stewardship of public funds and management of the Council's affairs.
- **Accountability** - being responsible as Members and officers for decisions and actions, including stewardship of public funds and all aspects of performance, and submitting themselves to appropriate external scrutiny.

The Council recognises that the three principles need to be reflected in the different aspects of service delivery and recognises that they are not mutually exclusive.

**Community Focus** - In carrying out its general and specific duties and accepting its responsibilities and ability to exert wider influence, the Council commits to:

- work for and with local communities
- exercise leadership in the local communities, where appropriate
- undertake an 'ambassadorial' role to promote the well-being of the Borough
- demonstrate integrity in the Council's dealings in building effective relationships with other public agencies and the private/voluntary sectors
- demonstrate openness in all its business
- demonstrate inclusivity by communicating and engaging with all sections of the community to encourage active participation
- develop and articulate a clear and up to date vision and Corporate Strategy in response to community needs.

**Service Delivery Arrangements** - The Council commits to ensuring that continuous improvement is sought, agreed policies are implemented and decisions carried out by maintaining arrangements which:

- discharge accountability for service delivery at a local level

- ensure effectiveness through setting targets and measuring performance
- demonstrate integrity in dealings with service users and developing partnerships to ensure the 'right' provision of services locally
- demonstrate openness and inclusivity through consulting with key stakeholders, including service users
- are flexible so that they can be kept up to date and be adapted to accommodate change and meet user wishes.

**Structure and Processes** – The Council commits to establishing effective political and managerial structures and processes to govern decision making and the exercise of authority. The Council will maintain arrangements to:

- define the roles and responsibilities of Members and officers to ensure accountability, clarity and ordering of the Council's business
- ensure that there is proper scrutiny and review of all aspects of performance and effectiveness
- demonstrate integrity by ensuring a proper balance of power and authority
- document clearly such structures and processes and to ensure that they are
- communicated and understood to demonstrate openness and inclusivity
- ensure such structures and processes are kept up to date and adapted to accommodate change.

**Risk Management and Internal Control** - The Council commits to establishing and maintaining a systematic strategy, framework and processes for managing risk. Together, these arrangements:

- include making public statements to stakeholders on the authority's risk management strategy, framework and processes to demonstrate accountability
- include mechanisms for monitoring and reviewing effectiveness against agreed standards and targets and the operation of controls in practice
- demonstrate integrity by being based on robust systems for identifying, profiling, controlling and monitoring all significant strategic and operational risks
- display openness and inclusivity by involving all those associated with planning and delivering services, including partners
- include mechanisms to ensure that the risk management and control process is monitored for continuing compliance to ensure that changes in circumstances are accommodated and that it remains up to date.

**Standards of Conduct** - The openness, integrity and accountability of individuals within the Council form the cornerstone of effective corporate governance. The reputation of the Council depends on the standards of behaviour of everyone in it, whether Members, employees or agents contracted to it. Therefore Members and senior officers will:

- exercise leadership by conducting themselves as role models for others within the authority to follow; define the standards of personal behaviour that are expected from Members and staff and all those involved in service delivery; and put in place arrangements to ensure accountability, through establishing systems for investigating breaches

and disciplinary problems and taking actions where appropriate, including arrangements for redress

- ensure effectiveness in practice through monitoring their compliance
- ensure that objectivity and impartiality are maintained in all relationships to demonstrate integrity
- ensure that such standards are documented and clearly understood to display openness and inclusivity and are reviewed on a regular basis to ensure that they are kept up to date.

### **Monitoring and Maintaining the Code**

The Council confirms its ongoing commitment and intentions through the development, adoption, monitoring and maintenance of the Local Code of Corporate Governance. Structures, policies and processes are in place to ensure necessary standards of corporate governance are not only achieved but maintained.

It is recognised that all officers and members are responsible for corporate governance but the responsibility of certain statutory posts are set out separately in the Constitution.

The Chief Executive and Leader will make an annual governance statement giving their position on whether the arrangements are adequate and are operating effectively. This will be prepared at the same time as the financial statement.

The Monitoring Officer will be given responsibility for:

- overseeing the implementation and reviewing and monitoring the operation of the Code on an annual basis
- reporting annually on compliance with the Code and any changes that may be necessary to maintain it and ensure its effectiveness in practice.

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# Documents which support the Constitution

## Part D

### Surrey Heath Borough Council Members' Code of Conduct

#### Arrangements for dealing with allegations of misconduct under Section 28 Localism Act 2011

##### Context

1. These arrangements describe how the public can make a complaint that a Member of Surrey Heath Borough Council "the Council" has failed to comply with the Council's Member Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council's Code of Conduct.
2. Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a Member of the authority (i.e. a councillor or a co-opted member) has failed to comply with that Council's Code of Conduct which may be investigated and decisions made on such allegations.
3. The arrangements under the Localism Act must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation and whose views can be sought by the Council at any other stage, or by a Member against whom an allegation has been made.
4. References to Monitoring Officer in this Document include any Deputy Monitoring Officer appointed by the Monitoring Officer.
5. Any timescales referred to in this Document may be extended by the Monitoring Officer depending on circumstances and reasons for delay.

##### Principles of these arrangements

6. The arrangements for dealing with allegations of a failure to comply with the Council's Code of Conduct will abide by the following principles
  - (a) they should reassure the public that complaints will be dealt with swiftly, properly and transparently;
  - (b) they should be simple, clear and follow the rules of natural justice;
  - (c) they should not be overly bureaucratic i.e. they should follow the law and not build in unnecessary additional measures;
  - (d) they should allow the Monitoring Officer to dismiss complaints which are vexatious, frivolous, without merit, outside the scope of the Code of Conduct or politically motivated;
  - (e) they should allow the Monitoring Officer in conjunction with the Independent Person to take decisions on whether a Councillor should be investigated;
  - (f) that following investigation, the Standards Sub Committee may decide whether that Councillor should be held in breach of the Code or, in the alternative, the Monitoring Officer may consider a local resolution; and
  - (g) they should allow for the Monitoring Officer to be accountable for such decisions in (e).

## **The Code of Conduct**

7. The Council has adopted a Member Code of Conduct, which is available on the Council's website. The Council has tasked the Monitoring Officer to keep the Code of Conduct and the operation of these arrangements under review.

## **Making a complaint**

8. Any person may make a complaint, in writing, to-  
The Monitoring Officer  
Surrey Heath Borough Council  
Surrey Heath House  
Knoll Road  
Camberley  
Surrey, GU15 3HD

Email: [monitoring.officer@surreyheath.gov.uk](mailto:monitoring.officer@surreyheath.gov.uk)

9. The Council will only process complaints which are in writing. The name and address of the complainant must be given and only in very exceptional circumstances will the Council investigate anonymous complaints.
10. The Monitoring Officer will acknowledge receipt of a complaint within 5 working days of receiving it, and will keep the complainant informed of the progress of the complaint at appropriate junctures.

## **Role of the Monitoring Officer**

11. The Monitoring Officer's job is to oversee the complaints process, to liaise with the Independent Person and where appropriate to refer cases to an Investigator and then potentially a Standards Sub Committee of the Audit & Standards Committee.
12. The Monitoring Officer is accountable to the Audit & Standards Committee for this function.

## **Independent Person**

13. The Council has appointed an Independent Person(s).
14. The Independent Person is not (and has not within the last five years from 1 July 2012) been a Member or an Officer of the Council.
15. The Monitoring Officer will consult the Independent Person on action to be taken under these arrangements at all relevant stages of the complaints process as directed by this Document.
16. A Member who is the subject of a complaint is also entitled to refer to the Independent Person for advice during the course of a complaint. Where possible, the Monitoring Officer will refer the Member to a second independent person to help avoid a conflict of interest for the independent person liaising with the Monitoring Officer.

17. The Independent Person receives expenses for undertaking this role but no other remuneration unless the Audit & Standards Committee recommends otherwise.

### **Assessment of complaints**

18. The Monitoring Officer will review every complaint received and, consult with the Independent Person where required or at any other times the Monitoring Officer considers appropriate.
19. The Monitoring Officer will inform the subject Member about the complaint and inform the Member that advice can be taken from the Independent Person.
20. The Monitoring Officer has power to reject complaints which are vexatious, frivolous, without merit, outside the scope of the Code of Conduct or malicious or in some other way an abuse of process. Where the Monitoring Officer has taken a decision that a complaint falls into one of these categories, he/she will inform the complainant of his decision and the reasons for that decision. There is no appeal from this decision. However, the Monitoring Officer, in his annual report to the Audit & Standards Committee, may provide information on the numbers and nature of the complaints he/she has rejected on this basis.
21. Where the Monitoring Officer requires additional information in order to come to a decision (about a vexatious etc. complaint) or a recommendation (about any complaint) he/she may seek such information from the complainant, the subject Member and other relevant persons such as a Parish Clerk but he/she will not commence an investigation prior to liaising with the Independent Person. For the avoidance of doubt, the Monitoring Officer may seek evidence and information to the extent required to demonstrate that there is merit to a complaint and whether the Monitoring Officer can accept an informal resolution; such actions do not constitute an investigation.
22. In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. The Monitoring Officer may consult with the Independent Person where this outcome seems appropriate. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action. The Monitoring Officer will have due regard to the following when considering whether a complaint can be resolved informally or requires formal investigation.
  - (a) The seriousness of the allegations
  - (b) The conduct and cooperation of the subject Member during the assessment
  - (c) The impact of the alleged misconduct
  - (d) The intentions of the subject Member regarding the alleged misconduct
  - (e) The complexity of evidence
  - (f) Whether there is conflicting evidence and such evidence is material
23. If the Monitoring Officer decides that the complaint concerns a service, policy or decision of the Council then he may refer it to the normal complaints procedure.
24. The Council has produced a flowchart for the assessment and investigation of misconduct complaints at Annex A. The Monitoring Officer will refer to this when making a decision to refer a matter for investigation. Where there is any conflict or

uncertainty between the flowchart and this Document, then this Document shall prevail.

25. If the Monitoring Officer decides that a complaint merits formal investigation, he/she /she will appoint one or more Investigating Officers, depending on the complexity of the complaint, either from within the Council, from a neighbouring authority or from an external investigator. For each appointment, the Monitoring Officer will give due consideration to the nature and complexity of the issues and the skill sets required for the investigation.
26. If the Monitoring Officer decides not to investigate the complaint, he /she will write to the complainant outlining the reasons why. This decision is final and will be reported as part of the Monitoring Officer's annual report to the Audit & Standards Committee.
27. During the investigation phase the Monitoring Officer will keep all parties informed of the progress of the case. It is expected that the complaint will be confidential during this phase. Only in very exceptional circumstances will the name of the complainant be withheld from the subject member. The Monitoring Officer will consider carefully any requests for anonymity from the complainant. In particular, if the Monitoring Officer considers that disclosing the name of the complainant to the subject Member would cause genuine harm or distress to the complainant, or prejudice the complaint process, the complainant's name should be withheld. An example might be a serious complaint about bullying or harassment.

### **The investigation**

28. The Investigating Officer will complete the investigation in accordance with any policy or guidelines that the Council shall adopt.
29. The investigation shall be carried out in a prompt manner.
30. At the end of the investigation, the Investigating Officer(s) will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the subject Member, to give both an opportunity to identify any factual matter in that draft report which is disputed or requires further investigation within 10 days of the report being issued.
31. Having received and taken account of any comments on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer as soon as is practicable.
32. The Monitoring Officer will consult with the Independent Person on the outcomes or recommendations of the investigation.
33. If following consultation, the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer(s) to reconsider his/her report.
34. The Monitoring Officer will review the Investigating Officer's report in light of the Independent Person's advice and, if he/she is satisfied that the Investigating Officer's report is sufficient and that no further investigations are required, the Monitoring Officer will write to the complainant and to the subject Member concerned with a copy of the final report.



### **Findings of “No-breach”**

35. If the Monitoring Officer finds that there has been no breach of the Code of Conduct then he/she will write to the complainant and the subject Member and dismiss the complaint. The decision is final and there is no appeal. The Monitoring Officer will include this decision in his/her annual report to the Audit & Standards Committee.

### **Findings of “Breach”**

36. If the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct then the Monitoring Officer will consult with the Independent Person, the subject Member and the complainant to see if any form of local resolution is possible.

### **Local Resolution**

37. The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with all the parties and seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the subject Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action.
38. If the subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit & Standards Committee for information, but will take no further action. Such reports should be open to public scrutiny.

### **Standards Sub Committee of the Audit & Standards Committee**

39. If the Monitoring Officer considers that local resolution is not appropriate, or the Member or complainant concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer’s report to a Standards Sub Committee which will conduct a local hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.
40. The Monitoring Officer will carry out a pre-hearing process which will be conducted by way of written correspondence or in complex cases by way of interview. As part of the pre hearing process the subject Member will be invited to give his/her response to the Investigating Officer’s report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing.
41. The Access to Information Rules will apply to meetings of the Sub Committee as it would apply to any other meeting of the Council. The Monitoring Officer will advise the Committee whether the press and public should be excluded during any part of the hearing process. In order to give confidence to the public it is expected that the meeting of the Committee will take place in public unless there are exceptional circumstances which dictate otherwise.
42. At the hearing, the Investigating Officer(s) will present his/her report, call such witnesses as he/she considers necessary and make representations to

substantiate his/her conclusion that the subject Member has failed to comply with the Code of Conduct. The subject Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

43. The Independent Person may be invited to attend the hearing to advise the Committee but is not required to attend.
44. If the Committee concludes that the subject Member did not fail to comply with the Code of Conduct, then they will dismiss the complaint.
45. If the Committee concludes that the subject Member did fail to comply with the Code of Conduct, the Chairman will inform the Member of this finding and the Committee will then consider what action, if any, should be taken as a result of the Member's failure to comply with the Code of Conduct.

### **Powers of a Standards Sub Committee**

46. In considering its response, the Sub Committee will give the Member an opportunity to make representations, but will then decide what action, if any, to take in respect of the matter. The powers of the Sub Committee are:
  - (a) To formally request the Member to apologise either privately or in public.
  - (b) To formally request the Member to attend training.
  - (c) To censure the Member.
  - (d) To send a report to Council to censure the Member.
  - (e) To require the Monitoring Officer to publish a report in the newspaper or on the Council's website about the Member's conduct.
  - (f) To withdraw privileges provided by the Council such as computer equipment, internet or email access.
  - (g) To formally inform to the Member's Group Leader of the outcome.
  - (h) To recommend to the Member's Group Leader that the Member be removed from a Committee or other body.
  - (i) Where appropriate, to limit the Member's access to only designated Officers.
  - (j) Or a combination of any of the above.
47. As a matter of law, the Sub Committee does not have the power to suspend or disqualify the Member or to withdraw allowances to which members are entitled.

### **Appeals**

48. There is no right of appeal for the complainant or for the Member against a decision of a Sub Committee.

### **Post hearing**

49. At the end of the hearing, the Chairman will state the decision of the Standards Sub Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Committee resolves to take.
50. As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Committee, and send a copy to all the parties, and if required, make that decision notice available for public inspection.

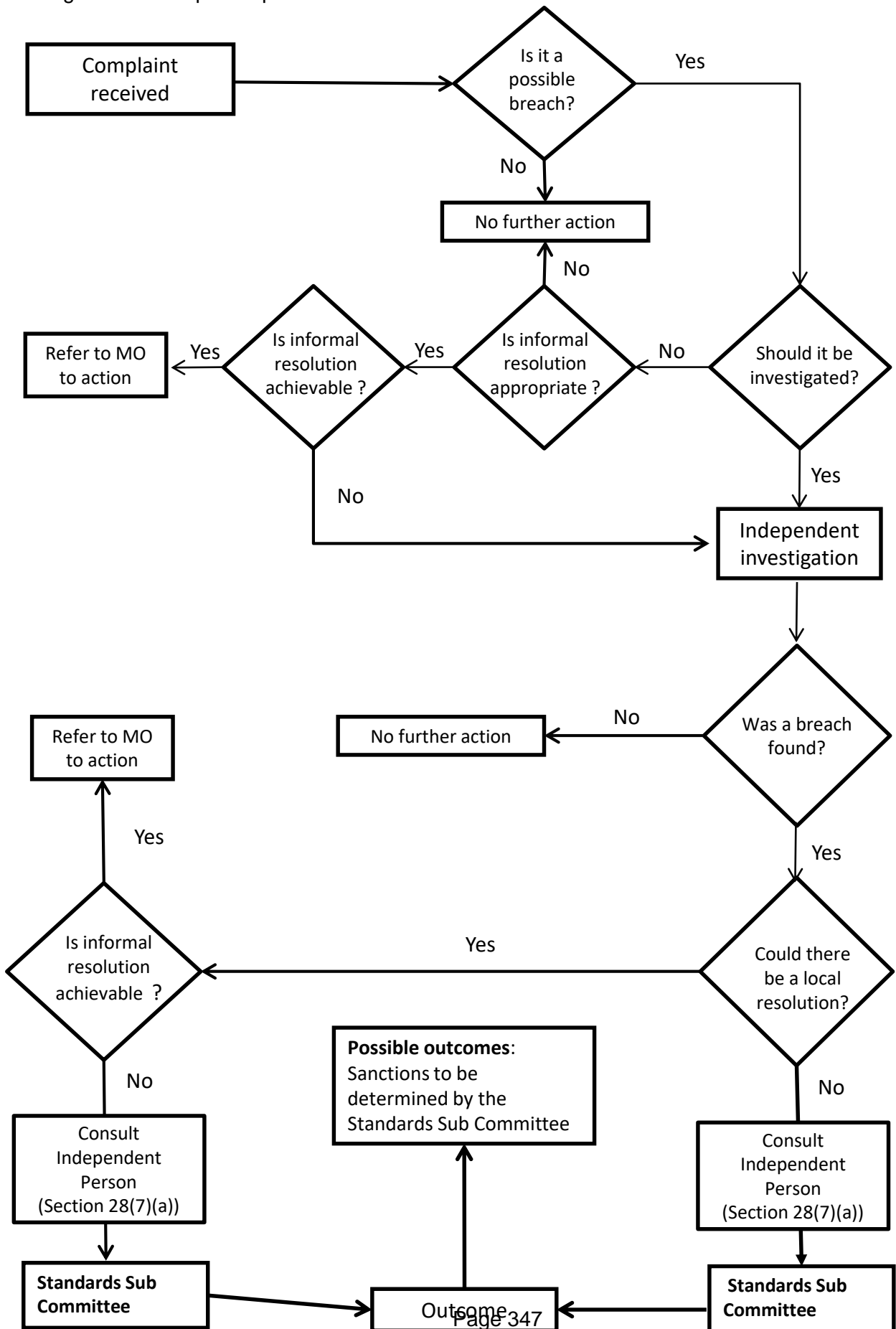
### **Revision of these arrangements**

51. The Council may by resolution agree to amend these arrangements, and has delegated to the Monitoring Officer the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

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# Arrangements for dealing with Complaints

The Monitoring Officer will consult with the Independent Person at all appropriate stages throughout the complaints process.



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# **Documents which support the Constitution Part E**

## **PROTOCOL FOR APPOINTMENTS/NOMINATION TO OUTSIDE BODIES**

### **1. GENERAL**

- 1.1 The Council has produced this protocol to ensure that:
- a) outside bodies to which the Council appoints representative meet the Council's suitability criteria and operate in an appropriate manner; and
  - b) members are aware of their obligations when representing the Council on outside bodies.

### **2. SUITABILITY OF OUTSIDE BODIES**

- 2.1 Appointment of Members to serve on outside bodies shall be dependent on one or more of the following conditions applying:
- (a) where it is considered necessary to supplement existing communication channels established by members and/or officers;
  - (b) where the Council has a significant interest in the business dealt with by the body in question, e.g. by virtue of owning relevant premises; providing significant resource contributions; being a key partner; or the fact that the work of the Body is of strategic significance to the Council;
  - (c) where Council appointees are legally required;
  - (d) where the boards of registered charities are required to include Council appointed trustees in order to comply with their Articles of Association or Trust Deeds;
  - (e) in other cases, where such representation would bring clearly defined mutual benefits to both the authority and the body in question.

### **3. SELECTION PROCESS**

- 3.1 Appointments to outside bodies are made by the Selection Committee, after consultation with Members. The majority of these are made in May each year. Any vacancies arising during the remainder of the year will be appointed/nominated by the Chief Executive under the Scheme of Officer Delegations, after consultation with Group Leaders. All appointments are notified to Members by email.
- 3.2 With the exception of the Surrey Heath Local Area Committee, where there are three or more appointments to an outside body and there are more nominations than the available places, the following principle will apply, in that two places will be offered, in the first instance, to the majority group with one or more places being offered to minority groups on the basis of proportionality.

#### **4. BASIS FOR APPOINTMENT**

4.1 Members will be appointed to outside bodies to:

- (a) represent the Council on joint local authority bodies/consortia
- (b) represent the Council by attending meetings of other organisations in a purely advisory capacity to:
  - observe proceedings; and/or
  - facilitate information exchange whilst promoting the interests of the Council as opposed to the body; or
- (c) act as executive members of other organisations (e.g. a director/trustee/voting member of a Management Committee) with an obligation to act in the best interests of the body concerned whilst conducting its business.

4.2. Where the Council makes appointments/nomination on the basis of sub-paragraph (b) and (c) above, officers shall assist, when requested, in seeking to verify whether the organisations concerned have adequate insurance cover in place to protect the Council's appointees.

4.3 Each organisation shall be requested to provide the Council with a clear statement of what is expected of Council appointees, e.g. in terms of the number of meetings to be attended and responsibilities associated with the appointment.

#### **5. THE ROLE OF COUNCIL REPRESENTATIVES**

5.1 The role of Council representatives on outside bodies will vary, but, essentially, will be to:

- help to secure any objectives of the Council in participating in the organisation;
- help the organisation to achieve its aims and objectives, legally, properly and effectively;
- meet any specific legal responsibilities attached to the membership of the organisation;
- safeguard the Council's interests on those organisations which are funded from or through the Council;
- encourage the organisation to adopt sustainable and ethical policies.

5.2 All outside bodies will have requirements placed on them either by statute or by their constitutions. Members should ensure, where possible, that those bodies comply with the requirements thereon.



### 5.3 Members are advised to:

- ask about any specific legal responsibilities attached to membership of the organisation;
- read the constitution of the organisation and be aware of its powers, duties and objectives;
- attend meetings regularly;
- ensure that they receive regular reports on the activities of the organisation and its financial position;
- where the organisation is funded by or through the Council, to obtain a copy of the Annual Report and Accounts to see that the funds have been spent on the agreed objectives; and
- seek advice from the appropriate Council officers in the event of any doubts or concerns about the operation of the organisation.

## 6. REGULATED COMPANIES

- 6.1 Members appointed to positions within companies or industrial and provident societies need to be particularly mindful of the possible impact of Part V of the Local Government and Housing Act 1989 and the Local Authorities (Companies) Order 1995. This legislation provides a framework for regulating local authorities' interests in companies.
- 6.2 The law in this area is particularly complex. However, one of the key issues in determining whether a company is a "regulated company" is the degree of involvement by local authorities or persons "associated" with them. For these purposes "associated" persons are essentially current Councillors and Officers and anyone who has been a Councillor in the past four years, together with certain employees of local authority-controlled companies. There is a danger of the company being 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.
- 6.3 Council nominees should be vigilant to monitor the proportion of "associated" persons involved with a company. They should immediately notify the Monitoring Officer of any resignation or appointment which might lead to the 20% threshold being reached. This information should be readily available as such matters should always be raised at board/management committee meetings and be properly minuted.

## 7. ANNUAL REPORT BY APPOINTED REPRESENTATIVES

- 7.1 It is considered to be best practice for members to report back to the Council in relation to their service on outside bodies on an annual basis and for this report to be used as part of the assessment by the Council when it considers the merits of continuing to make appointments to the organisations in question. Members serving on outside bodies are asked to make such a report to the Selection Committee at the time it considers the making of these appointments.

## **8. URGENT MATTERS**

- 8.1. Should any issue arise at a meeting of the outside body which is of significance to the Council, the Member representing the Council should urgently raise the issue with the Leader of the Council.

## **9. SUBSTITUTES**

- 9.1 Where substitutes are appointed, it shall be the responsibility of the appointed Member to notify the substitute and the outside body in the event that he/she is unable to attend any meeting.

## **10. MEMBERS' CODE OF CONDUCT**

- 10.1 If a councillor is appointed by the Council to be its representative on an outside body, this interest must be recorded in the Register of Financial and Other Interests, including any position of general control or management of that body. The councillor must disclose at any meeting of the authority, the existence and nature of the interest at the commencement of the consideration of the matter or when the interest becomes apparent. This is a personal rather than a prejudicial interest so the councillor may remain during the discussion and participate in any vote.

## **11. EXPENSES**

- 11.1 Members should normally claim any expenses where possible from the outside body in question. The Selection Committee or the Chief Executive, after consultation with the Group Leaders, is authorised to identify outside bodies, for which the attendance of meetings would be an approved duty for the payment of allowances. Travelling expenses which cannot be recovered from the outside body shall be payable to appointed members for journeys in excess of 3 miles.
- 11.2 If the outside body appoints the Council's representative to be its representative on another body (for example to be the representative of a borough-wide body/committee on a regional body/committee) the travelling and subsistence allowance claims shall be met by the Council in accordance with its allowance scheme.

## **12. INDEMNITY**

- 12.1 Members representing the Council on Outside Bodies will be indemnified by the Council against any loss or damage suffered by the Member arising from his /her action or failure to act as a Member of the Authority.
- 12.2 A copy of the Council's Terms of Indemnity is held by Financial Services and a copy thereof or advice will be provided on request by the Service Accountant - Insurances.

## **13. CHANGES TO OUTSIDE BODY ARRANGEMENTS**

- 13.1 Members are requested to notify the Chief Executive (through Committee Services) in the event that any contact and/or other details change in relation to the outside bodies they serve on.

# Documents which support the Constitution

## Part F

### Social Media Protocol for Councillors

#### Introduction

1. All Members of the authority are required to act in accordance with the Member Code of Conduct whilst acting in their official capacity.
2. Blogging and social networking are effective methods for councillors to interact with constituents and support local democracy. Used effectively, they can engage those who would not normally have access to local councillors and politics. However it is not always clear whether such activities are covered by the Code of Conduct. This guide is intended to assist members in complying with the Code and ensuring that the use of online media is well received.
3. You should think about what you say and how you say it, in just the same way as you must when making statements in person or in writing.
4. You will also need to think about whether you are seen to be, or give the impression that you are acting in your official capacity as a councillor. If you do give the impression that you are acting in your official capacity whilst blogging or using social media, such activity will be caught by the Code.
5. Individual councillors are permitted to have their own official social media sites as Members of Surrey Heath Borough Council but in these they must conform to the protocols of the Council.
6. If you have a private blog you must bear in mind that if you refer to council business in it, you may be viewed as acting in your official capacity.
7. To make sure you comply with the Code of Conduct, you are requested to observe the following guidelines:

#### Do

- Consider whether you need to set appropriate privacy settings for your blog or networking site – especially if you have a private, non-political blog
- Keep an eye out for defamatory or obscene posts from others on your blog or page and remove them as soon as possible to avoid the perception that you condone such views
- Be aware that the higher your profile as a councillor, the more likely it is you will be seen as acting in your official capacity when you blog or network
- Ensure you use council facilities appropriately; and be aware that any posts you make using Council facilities will be viewed as being made in your official capacity/ and or an inappropriate use of Council resources.
- Be aware that by publishing information that you could not have accessed without your position as a councillor, you will be seen as acting in your official capacity

- Make political points, but be careful about being too specific or personal if referring to individuals. An attack on individuals may be seen as disrespectful, whereas general comments about another party or genuine political expression is less likely to be viewed as disrespect.

### **Don't**

- Blog in haste.
- Post comments that you would not be prepared to make in writing or face to face
- Use council facilities for personal or party political blogs.
- Refer to any information identified by the Council as confidential or exempt in any Social Media Channel

### **When the Code may apply**

8. Bear in mind the Code when you blog or use social networking sites. You should pay particular attention to the following paragraphs of the Code:
  - Disrespect
  - Bullying
  - Disclosure of confidential information
  - Disrepute
  - Misuse of authority resources
9. It is difficult to give definitive advice on the application of the Code as each blog and social networking page is different. The content of a blog or other social networking tool and the circumstances surrounding its creation will determine whether or not it might be covered by the Code.
10. Ethical use of online social media is not limited to what is covered in the Code. Councillors are encouraged to respect the principles of the Members' Code of Conduct, which can be found at Part 5, Section A of the Constitution. While your conduct may not be a breach of the Code it may still be viewed as less than exemplary and attract adverse publicity for your office, political party/group and the Council.

### **Derogatory comments**

11. On occasion, councillors might find themselves the subject of offensive or defamatory remarks on other people's blogs or networking sites. The following approach is advised in such circumstances, and applies equally to any form of publication:
  - Pursue a policy of indifference to such remarks, but if you do wish to respond, do not be tempted into retaliation because you may risk breaching the Code. You could ask the blog owner/person making the remarks to remove them from the site.
  - If the person making the comments is a local authority, town or parish councillor, discuss the situation with the Monitoring Officer. It might be the case that the person has

breached the Code by making the remarks, and it could be appropriate to make a complaint to the Monitoring Officer.

- Aside from any possible breaches of the Code of Conduct, the matter is usually deemed private between yourself and the individual. The Council cannot provide legal assistance for pursuit of a claim through the civil courts, but you may decide that you wish to take independent legal advice.

### **Use of Media Devices during Council Meetings**

12. With the exception of meetings of the Planning Applications Committee, the Licensing Sub Committee, Standards Hearing Sub Committees, or the Full Council when considering major planning applications, Members may use media devices for any purpose.
13. At meetings of the Planning Applications Committee, Licensing Sub Committee, Hearing Sub Committees or the Full Council when considering major planning applications, the decision-making Members may only use media devices to access meeting papers and for note taking. Other Members in attendance at these meetings may use media devices for any purpose.
14. At all meetings, during the consideration of exempt items, Members may only use media devices to access meeting papers and for note taking.

### **Interaction with SHBC social media accounts**

15. The Council has its own official social media channels, predominantly on Facebook ([www.facebook.com/surreyheath](http://www.facebook.com/surreyheath)) and Twitter ([www.twitter.com/surreyheath](http://www.twitter.com/surreyheath)). Councillors are encouraged to share those posts onto their own social media accounts, adding accompanying comments if they so wish.
16. Councillors should never disclose exempt information. Councillors should not add extra information beyond that in the social media post/press release as this could potentially compromise the Council, or even result in legal action.
17. Councillors should not add any party political comment in relation to a Council social media post that is advocating support or opposition for any political party or group.
18. Council press releases are written by officers, and express the official Council position as democratically decided, including quotes from the Leader or Portfolio Holder. Related social media posts are not therefore an online debating chamber, and councillors are encouraged (but not compelled) to use their own channels instead.
19. Officers reserve the right to remove any comments (including those by councillors) that may be deemed offensive or abusive in the view of the Monitoring Officer, or other appropriate officer.

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# Documents which support the Constitution

## Part G

### SPONSORSHIP ARRANGEMENTS PROTOCOL

#### General Provisions

1. The Council recognises the need to encourage sponsorship and other income generating initiatives which assist the Council with the delivery of effective services to the community.
2. The Council must ensure, when considering any sponsorship arrangement, that it can demonstrate transparency in its dealing with sponsors and that it has taken care to ensure that the connection between a sponsor and the Council does not place the Council in a compromising position.
3. The guidance and principles set out in this protocol are designed to assist officers and councillors at Surrey Heath in their consideration of sponsorship initiatives in a responsible way during the identification, negotiation and management of such initiatives. In addition, officers must also comply with the Council's Financial Regulations and their general obligations set out in paragraph 19 of the Code of Conduct for Officers.
4. All proposed sponsorship initiatives must always be fully documented and referred to the Chief Executive at an early stage so that there is awareness at senior management level of any potential sponsorship arrangement which is being considered. Financial Regulations at Part 4 set out the arrangements for offers of sponsorship with a value of less than £1,000. Offers of sponsorship over £1,000 must be approved by the Leader/Executive.
5. Where sponsors are actively sought by the Authority, reasonable effort should be made to approach more than one potential sponsor so that a variety of proposals may be evaluated and considered before the most appropriate sponsor is finally chosen. To assist with deciding the number of sponsors to be considered, officers should use as a guide the number of estimates or tenders to be obtained for each financial level set out in the Contracts Procedure Rules at Part 4 and adopt the same principles, according to the relative value of the sponsorship required.
6. Where sponsorship is not actively sought but is offered to the Council by a sponsor, arrangements must comply with the requirements set out in the Council's Financial Regulations which govern acceptance of sponsorship initiatives and the protocols contained in this document.
7. Whether sponsorship initiatives are sought by the Council or offered voluntarily by sponsors, officers must always satisfy the Head of Service, after consultation with the Chief Executive and appropriate Portfolio Holder, in respect of those with a value of less than £1,000, and the Leader/Executive in respect of those with a value of more than £1,000, that the proposed sponsorship opportunity offers value for money to the Council and its community and does not place the Authority in a position which is likely to:-
  - a) compromise the integrity of the Council

- b) fetter its future decision-making powers in any way or the way in which any services are delivered to the public or to that organisation in the future; or
- c) be seen as detrimental to the Council's corporate image

If officers have any doubts on any of the above mentioned points they should seek advice from the Council's Monitoring Officer.

### **Financial Considerations**

8. Where sponsorship arrangements may commit the Council to any revenue implications, or where the arrangement concerns property belonging to the Council or requires permissions, consents or approval from the local authority, the sponsor must be made aware of the need to obtain the consents from the relevant regulatory service within the Council and the sponsorship arrangement must be approved in accordance with Financial Regulations before any commitment is entered into.
9. Where sponsorship is being offered the officer must:
  - a) ask the Head of Corporate Finance to carry out checks in the case of a company to establish its current financial position and its business connections with other companies or subsidiaries;
  - b) seek confirmation from the Head of Corporate Finance whether enforcement action is pending or being considered against the potential sponsor or any associate companies.
  - c) consult the Council's Insurance Officer to confirm whether the proposals are covered by the Council's Insurance Policy or that arrangements can be made to cover any additional liability.
10. Any agreed sponsorship funds must be exclusive of VAT. If part of the sponsorship arrangement includes the provision of services or goods, the officer must consult the Executive Head of Finance to establish any potential VAT implications for the Council before any agreement on sponsorship is concluded.

### **Legal Implications**

10. All sponsorship agreements with the Council must be in writing and signed by all parties before the Council should accept any funds, goods or services from the sponsor. The Council's Contracts Procedure Rules must be followed regarding the signing of contracts.
11. All sponsorship agreements should be limited to a maximum period of four years. This does not preclude entering into a further and subsequent sponsorship agreement with the same sponsor, provided the arrangement is reviewed in accordance with this protocol on the expiry of each four year period.
12. A sponsorship agreement must include a break clause in the event that the Council needs to discontinue its arrangement with a sponsor due to the arrangement no longer complying with the spirit of this protocol.
13. Where the sponsorship arrangement involves the supply of goods to the Council, which are to be retained by the Council after the sponsorship period has ceased, the Council must ensure:



- a) title to the goods will vest in the Council at the conclusion of the sponsorship arrangement
- b) the Council does not need to account to the sponsor for the future use or disposal of the goods

### **Reporting**

- 14. The Council's Monitoring Officer will be notified of all sponsorship arrangements which are entered into by the Council.
- 15. Financial Regulations require that offers of sponsorship of less than £1,000 be reported twice yearly to the Leader/Executive. Offers of sponsorship of over £1,000 must be approved by the Leader/Executive. In addition an annual report on sponsorship initiatives will be reported to and considered by the Standards Committee.
- 16. This protocol was adopted on 14 July 2010 and will be monitored by the Council's Monitoring Officer, with a full review of the terms being made every three years.

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# Documents which support the Constitution Part H

## Hearing Sub Committee Meeting Procedure

<u>Item No.</u>	<u>Procedure</u>
1	<p>1.1. Only those members present throughout the entire proceedings will be able to participate in the decision.</p> <p>1.2. The Independent Person may attend at the Monitoring Officer's request, although they are not required to.</p>
2	<p><b><u>Opening</u></b></p> <p>2.1 The Chairman will outline the procedure for the meeting and remind all parties to turn off mobile phones, audible alarms and pagers etc.</p> <p>2.2 The Chairman will ask for apologies for absence to be given and which members are attending as substitute members.</p> <p>2.3 The Chairman will ask the Committee if they agree to the signing of the minutes of the last meeting.</p> <p>2.4 The Chairman will invite Members to declare any interests.</p> <p>2.5 The Committee will be invited to consider whether the public should be excluded from the meeting as the business is likely to involve the disclosure of exempt information and if so to pass the appropriate resolution identifying the relevant paragraph.</p> <p>2.5 The Chairman will ask all present to introduce themselves.</p>
3	<p><b><u>The Complaint</u></b></p> <p>3.1 The Monitoring Officer will introduce their report. The Investigating Officer will be invited to present their report including any documentary evidence or other material and may call witnesses. This report and documentary evidence must be based on the complaint made to the Council.</p> <p>3.2 The Councillor against whom the complaint has been made (or their representative) may question the Monitoring Officer, the Investigating Officer or any witnesses upon the content of the reports. (This is the Councillor's opportunity to ask questions rising from the Monitoring Officer's report and not to make a statement).</p>
4	<p><b><u>The Subject Member's case</u></b></p>

	<p>4.1 The Subject Member against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Subject Member or their representative)</p> <p>4.2 Members of the Committee may question the Subject Member and /or any witnesses.</p>
5	<p><b><u>Summing Up</u></b></p> <p>5.1 The Monitoring Officer or the Investigating Officer may sum up the complaint.</p> <p>5.2 The Subject Member (or their representative) may sum up their case.</p>
6	<p><b><u>Decision</u></b></p> <p>6.1 Members of the Committee will consider the complaint in the light of advice from the Monitoring Officer prior to reaching a decision.</p> <p>6.2 The Chairman will announce the Committee's decision in the following terms:-</p> <p>6.2.1 The Committee decides that the Member has failed to follow the Code of Conduct or</p> <p>6.2.1 The Committee decides that the Member has not failed to follow the Code of Conduct</p> <p>6.2.2 The Committee will give reasons for their decision</p> <p>6.3 If the Committee concludes that the subject Member did not fail to comply with the Code of Conduct they will dismiss the complaint.</p> <p>6.4 If the Committee decides that the Member has failed to follow the Code of Conduct they will consider any representations from the Monitoring Officer and/or the Member as to:</p> <p>6.4.1 Whether any action should be taken and</p> <p>6.4.2 What form any action should take</p> <p>6.5 The Committee will consider what action if any should be taken after considering advice from with the Monitoring Officer.</p> <p>6.6 The Chairman will announce the Committee's decision (in relation to a Parish Councillor a recommendation to the Parish Council)</p> <p>6.7 The Committee will consider whether it should make any recommendations to the Council or in relation to a Parish Councillor to the Parish Council with a view to promoting high standards of conduct among Members</p> <p>6.8 The Chairman will confirm that a full written decision shall be issued within 7 working days following the meeting, that the Committee's</p>

	findings will be published and that there is no right of appeal.
7.	<b>Review of Exempt Information</b>  7.1 If any of the proceedings have been conducted having excluded the press and public, the Committee will consider what information may be released to the public.

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# Documents which support the Constitution

## Part I

### Protocol for the Recording of Council, Executive and Committee meetings

#### Introduction

1. The Council supports the principle of transparency and welcomes the recording of public meetings by members of the press and public. Recording means filming, audio recording and taking photographs. This Protocol intends to facilitate opportunities for members of the press and public to record public meetings of the Council whilst allowing the Council to conduct its business effectively.
2. It is expected that Members and Officers, in carrying out their role at public meetings, consent to being filmed.
3. Whilst recording will normally be allowed, the Chairman will have absolute discretion to manage the recording of a meeting. Examples when this will apply include:
  - where there is public disturbance at a meeting;
  - where it is considered that recording of the meeting could infringe upon the rights of an individual;
  - where Members vote to exclude the press and public from the meeting, in accordance with Access to Information Rules at Part 4 of the Constitution.
4. In allowing the recording of meetings, the Council asks that those recording proceedings do not edit the record in any way which could lead to misinterpretation of the proceedings. This includes editing an image or views expressed in such a way which may ridicule, or show a lack of respect.

#### Recording of meetings by members of the Public

5. Whilst the meeting is in progress, members of the public, when recording a meeting, will be required to remain in place and not to move around the room.
6. If a member of the public wishes to use a tripod or large camera, they must notify the [Democratic Services Manager](#) 24 hours in advance of the meeting in order for an area of the meeting venue to be identified in which to position the equipment.
7. No flash photography will be permitted during meetings.

#### Recording of meetings by Members of the Council

8. With the exception of meetings of the Planning Applications Committee, the Licensing Sub Committee or the Full Council when considering major planning applications, Members will be permitted to record the meeting.
9. At meetings of the Planning Applications Committee, Licensing Sub Committee or the Full Council when considering major planning applications, the decision making Members may not record the meeting. Other Members in attendance at these meetings may record the meeting.
10. At all meetings, during the consideration of exempt items, Members may not record any part of the meeting.

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## **Documents which support the Constitution Part J**

### **Protocol for the Registration of Residents' Associations, Business Associations and Amenity Societies for the purpose of Public Speaking at Planning Applications Committee.**

#### **Background**

1. The Council recognises that Residents' Associations, Business Associations and Amenity Societies play an important role in representing groups of residents and businesses in a particular area and encourages the registration of such groups with the Executive Head of Corporate in order for them to participate in the Council's public speaking scheme for Planning Applications Committee.
2. The objective of registering an organisation for the purpose of public speaking at Planning Applications Committee is to allow a group representing a number of local residents to be given preference, on a first come, first served basis, in the allocation of the available slots for speaking at the Committee on a planning application, as an organisation will be able to represent the democratically reached views of a number of residents, not just an individual.
3. The requirements for a previously registered organisation to be eligible to speak on a planning application at a meeting of the Planning Applications Committee, or the Full Council, are set out in further detail at Part 4 of the Constitution.
4. This protocol is designed to provide a framework and guidance to such associations in completing their application to register as a registered organisation for the purposes of public speaking with the Council, whilst ensuring that the Council can be satisfied that the organisation genuinely represents the views of a portion of the community.

#### **Qualification**

5. The organisation must be a constituted organisation with voting members and a transparent process for decision making or for reaching a clear view on any particular planning application.
6. The organisation must have a Constitution which sets out the details of its committee or officers, as relevant, and the qualification for membership. Membership should be open to all members of the relevant community. Guidance on the requirements for a Constitution is attached at Appendix 1 to this document.

7. In order to fulfil the objectives at paragraph 2 above, it is expected that an organisation represents a minimum of 10 households or 5 businesses as relevant.

### **Submission of an application to register**

8. In order to be accepted as a registered organisation for the purposes of public speaking, the organisation must complete an application form supplied by the Council, along with the following accompany information:
  - The organisation's Constitution
  - Accounts or relevant financial information of the organisation
  - Details of current membership

### **Renewal of registration**

9. It is recognised that some associations are established in response to a particular issue and that the focus for the organisation can change. It is also recognised that the membership of an organisation will be subject to natural change.
10. In order to ensure that the registered organisation continues to be eligible to be registered with the Council and therefore receive the preferential treatment afforded in the allocation of public speaking spaces, the Council retains a right to ensure that the named organisations continues to meet its qualifying criteria.
11. As a result, the organisation will be asked to provide the signed minutes of its most recent Annual General meeting, which must have been held within the previous 18 month period.
12. However, the Council also has the discretion to ask an organisation to provide further information or evidence relevant to its ongoing registration if it learns that there has been a material change to its status.

**Requirements for Constitutions of  
Amenity Societies/ Residents' Associations or Business Associations.**

**1. Name of the Organisation**

**2. Objectives**

**3. Membership**

- Who is permitted to be a member of the society/association?

**4. Meetings**

- Is there an Annual General Meeting?
- Is there a Committee?
- How are the members of the Committee appointed/vacancies filled?
- Are minutes of the meetings kept?
- How are decisions made? By Committee?
- How are people kept informed of decisions made?
- Please provide details of how and when these meetings are held and called.

**5. Rules of the Association**

- Are there any rules that are not already outlined?

**6. Changes to Constitution /Dissolution**

- How may members propose changes to the constitution, including dissolution of the association?
- What happens if the association is dissolved?

**7. Finances (including Audit information)**

- How are the finances kept?
- Is there a subscription fee?
- Are the books audited, and if yes how often is this done and is it done by an external person/body?

In addition, constitutions should:

- Be signed by all members of the Committee
- Be written as a document and not a letter

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# Documents which support the Constitution

## Part K



### Civic and Ceremonial Protocol

1. Introduction
2. The Role of the Mayor
3. The Role of the Deputy Mayor
4. Non-Political Conduct whilst acting as the Mayor
5. Undertaking Civic and Ceremonial Duties
6. Meetings of the Council
7. The Mayor's Charity
8. Mayor's Chaplain
9. Annual Civic Service
10. Events
11. Visits Abroad
12. Special Responsibility Allowance
13. Civic Mayoral Budget
14. Use of the Mayor's Office and Parlour
15. Acceptance of Gifts
16. Mayoral Robes and Regalia
17. Use of Images of the Mayor or Deputy Mayor in Election/Political Material
18. Media
19. Support from the Civic Support Office



## **1. Introduction**

- 1.1 Section 3 of the Local Government Act 1972 states that all local authorities must elect a chairman and vice chairman. The only authorities who can use the alternative term 'mayor' and 'deputy mayor' are those, like Surrey Heath, which have been granted a Royal Charter and given the status of Borough.
- 1.2 The office of mayor is an important element of the Council's governance structure. The role is demanding and governed by complicated rules, regulations, official procedures and etiquette. Whilst the powers of the ceremonial mayor may have diminished over the years, the role has retained its importance in the country's history and cultural heritage.
- 1.3 The Mayor is elected by councillors, usually at the Annual Meeting of Full Council, and has a key role to play in boosting the level of goodwill between the Council and its residents.

## **2. The Role of the Mayor**

- 2.1 First Citizen of the Borough - To act and conduct him/herself as the first citizen of the Borough and as an Ambassador of the Council in promoting the Borough of Surrey Heath
- 2.2 Chairman - To act as a politically impartial chairman of the council, making sure that proper conduct takes place in the Council Chamber during meetings. This is enshrined in Article 5 of the Council's Constitution.
- 2.3 Civic Functions – To preside over civic functions including the Civic Service and civic receptions.
- 2.4 Good causes - To promote good causes, raise the profile and gain publicity for projects and events that are of a charitable or voluntary nature which benefit the citizens of Surrey Heath, particularly smaller organisations.
- 2.5 Mayor's Charity - To raise funds for the charities chosen by the Mayor and to announce at the Annual Full Council a charity or charities which will be supported during the civic year;
- 2.6 Events - To represent the Council at events and funerals of civic dignitaries past and present on behalf of the Council, attend and make speeches as required at community events, clubs, associations and other organisations within the Borough, neighbouring boroughs and other Surrey Councils.
- 2.7 Civic Protocols – To observe civic protocols when undertaking the civic ceremonial role.

## **3. The Role of the Deputy Mayor**

- 3.1 The Deputy Mayor must preside over meetings of the Council in the absence of the Mayor.
- 3.2 He or she is entitled to discharge all the functions of the Mayor in the Mayor's absence and is entitled to the Mayor's right of precedence within the Borough, but does not have the right to wear the Mayor's robes and chain or badge.
- 3.3 The Deputy Mayor, at the direction of the Mayor, will deputise for and undertake the key responsibilities of the Mayor.

#### **4. Non-Political Conduct whilst acting as the Mayor**

- 4.1 During the course of his/her Mayoral year, the Mayor should not act in a party-political manner. Whilst he/she will remain a member of any political group or party, he/she should not take a group whip, attend any party-political events or campaign for any political party or candidate other than his/her own re-election as a Councillor. The Mayor should not make party political comments on social media or elsewhere even when acting in a personal capacity.

#### **5. Undertaking Civic and Ceremonial Duties**

- 5.1 The Mayor, Deputy Mayor and the Mayoress, Deputy Mayoress, consort or escort, when undertaking their civic and ceremonial roles will:
  - Behave in a manner appropriate and fitting to their position as First Citizens of the Borough when attending any event in their civic and/or ceremonial roles.
  - Keep their expenditure within the budget/allowance allocated by the Council to the Mayor.
  - Not bring the Council into disrepute through abuse of office.
  - Not attend any function or otherwise give support to any organisation or person, whose objectives are contrary to law and/or Council policy.
  - Not solicit engagements or visits at home or abroad or otherwise procure favours by virtue of office.
  - Not use the office of Mayor or Deputy Mayor to promote their business interest.

#### **6. Meetings of the Council**

- 6.1 Election - At the Annual Meeting in May every year, the election of the Mayor will be the first item of business conducted by the Council in accordance with the Local Government Act 1972 and the Constitution. The second item of business will be the election of the Deputy Mayor.



- 6.2 Whilst the Council may elect whomever it deems fit as Mayor within the law and the Council's Constitution, Members are advised to take into account the responsibilities of the role.
- 6.3 In recognition of the importance and prominence of the Mayoralty, it is encouraged that, where possible, Councillors may not be considered for the role of Mayor if
- He/she has an unspent criminal conviction.
  - He/she have been summonsed for non-payment of Council Tax or Business Rates in the preceding 12 months.
  - The Council is in formal dispute with him/her or his/her pecuniary interests including his/her employment.
  - He/she have previously been the Mayor and served a full one-year term.
- 6.4 Members should also use their best endeavours to avoid a contest at the Annual Meeting.
- 6.5 The Mayor will be assisted in chairing Council meetings by the Chief Executive, who will provide appropriate support and guidance including (but not limited to) briefing the Mayor prior to the Council meeting on procedural and other relevant issues.

## **7. The Mayor's Charity**

- 7.1 The Mayor may select one or more charities to support and he or she make an announcement to that effect at the Annual Meeting. These charities will normally be registered with the Charity Commission. If, in the opinion of the S151 Officer, the charity is unacceptable for legal or financial reasons, the Mayor will be asked to select an alternative. In addition, the Mayor will not be allowed to choose a charity in which he/she is a trustee, employee or has any other pecuniary interest.
- 7.2 The Mayor's Charity is registered with the Charity Commission Registration No: 105331. A bank account is held and finance officers undertake the day to day administration. All monies raised during the Mayor's year of office will be distributed to the chosen charities as soon as possible after the end of the Mayor's term of office. Only money that has been collected can be distributed.
- 7.3 The trustees of the Mayor's Charity are the Mayor, the deputy mayor, the past mayor, the Chief Executive and the S151 Officer. The Trust is also governed by the Charities' Commission rules and guidance. All administrative functions related to the Mayor's chosen charities must be undertaken by the appropriate officers of the charity in question and not by the Mayor or the Council, or by the Civic Support Office. The Mayor must abide by any guidance issued from time to time by the S151 Officer or the Monitoring Officer in respect of the Mayor's Charities.

7.4 The Mayor's Charity will undertake its own fund-raising activity and its associated administration. The Civic Support Office will provide limited support.

## **8. Mayor's Chaplain**

8.1 Traditionally prayers are said at a meeting of the Council immediately prior to the start of the meeting and the Mayor may appoint a Chaplain to lead the prayers at and to conduct the Civic Service.

8.2 However the Mayor may determine, in accordance with their own conscience or personal religious beliefs the extent to which their religion (Christian or otherwise) shall be involved in their mayoral year, or to have no religious involvement in their mayoral year.

## **9. Annual Civic Service**

9.1 The Mayor may organise and hold an annual civic service at his/her chosen place of worship within the Borough, subject to approval by the Chief Executive.

9.2 The Civic Support Officer will assist where necessary, i.e. with invitations, and may also attend the service together the Mace Bearer.

9.3 This event has traditionally been held at the start of the Mayoral Year and any collection receipts taken at the service are usually shared between the host Church and the Mayor's nominated Charity.

9.4 The cost of refreshments following the service and any other necessary expenditure will be met from the Civic Events Budget.

## **10. Events**

10.1 **Programme of Events** - The Mayor, in conjunction with the Civic Support Office, will produce a programme of events which meets the civic and ceremonial objectives of the Council. The Mayor will take account of the Council's requirements and priorities in determining the programme.

10.2 **The Mayor Making Ceremony** - The Annual Council Meeting includes the Mayor Making ceremony at which the new Mayor is sworn in and the Chain of Office. At this meeting the Mayor will assume the title and responsibilities of the role. The Mayoress or escort/consort will also be appointed at this ceremony and presented with the Jewel of Office.

10.3 The Civic Support Office will prepare the Council's guest list in liaison with the Chief Executive. The incoming Mayor and Deputy Mayor are allowed a limited guest list of family and friends.

10.4 **Civic Engagements** - The Civic Support Office will manage invitations for the Mayor or Deputy Mayor to attend civic/ceremonial events or any proposal for

a civic event or engagement. Attendance at all engagements will be co-ordinated by the Civic Support Office.

- 10.5 **Suitability of Attendance** - The Civic Support Office will liaise closely with the Mayor, conduct any research and advise the Mayor and Deputy Mayor on the suitability of attendance at the events.
- 10.6 **Non-Political Nature** - Events attended by the Mayor should be of a non-political nature and the advice of the Chief Executive should be sought if necessary.
- 10.7 **Outside The Borough** - Delegations or visits led by the Mayor to places outside the Borough should be restricted to neighbouring or Surrey authorities. The visits must be subject to appropriate planning and reporting, and organised by the Civic Support Office.
- 10.8 **Unavailability of the Mayor** - The Deputy Mayor should cover events or engagements which the Mayor is unable to undertake. Where the Deputy Mayor is not available, the Council's representative will be an Alderman or past Mayor. However invitations should only go beyond the Deputy Mayor when it is considered that the lack of civic presence would be seen as detrimental to the Council. The Civic Support Office will decide on this in consultation with the Chief Executive where necessary.
- 10.9 **Mayoress, Deputy Mayoress, Consorts/Escorts** - The Mayoress, Deputy Mayoress, Consorts/Escorts are not authorised to attend ceremonial or official functions or officially represent the Borough on an independent basis, i.e. when not accompanied by the Mayor/Deputy Mayor. They may however accept invitations and attend informal charity events with the permission of the Mayor/Deputy Mayor.
- 10.10 **Conferences, Seminars or Openings** - At events hosted by the Council such as conferences or seminars, the Mayor will normally give a welcome to delegates. At events promoting Council achievements (e.g. opening new facilities), the Mayor will normally undertake ceremonial duties such as cutting of a ribbon, and the appropriate Executive Member will normally make the official speech.
- 10.11 **The Civic Dinner** – is a civic gala event hosted by the Mayor. This event is to show the Council's appreciation to representatives of the community, voluntary sector and the business community and to thank them for their contribution to the Borough.
- 10.12 The event will be arranged by the Civic Support Office. The Chief Executive will consult the Mayor on the arrangements and the guest list. The cost of the event will be met from the Civic Events Budget.

## 11. Visits Abroad

- 11.1 Any visits planned by the Mayor should be discussed with the Civic Support Office at the earliest opportunity. A detailed proposal must be submitted to and approved by the Chief Executive prior to any financial commitment being made.
- 11.2 Visits should be for official purposes and not of a personal or political nature. An event can usually only be approved if funding has been identified to cover costs.
- 11.3 The proposal should include details of
- The purpose of the visit (such as town twinning), the benefits to the Borough of Surrey Heath and its residents.
  - The names of others who will be accompanying the Mayor.
  - Details of the costs to be incurred and any hospitality expected to be received and from whom.
- 11.4 Invitations should be arranged through the Civic Support Office. The Chief Executive will decide on any logistical or other arrangements necessary or appropriate or ancillary to any visit abroad.
- 11.5 Only the expenses of the Mayor and Mayoress will be met from the Civic Events Budget.

## **12. Special Responsibility Allowance**

- 12.1 Both the Mayor and Deputy Mayor are paid a Special Responsibility Allowance in addition to their basic allowance to reflect personal and incidental expenses, such as mileage, incurred in carrying out the Mayoral function within the Borough. This allowance is taxable.

## **13. Civic Events Budget**

- 13.1 All expenditure incurred by the Mayor whilst carrying out the activities detailed in 13.2 will be met from the Civic Events Budget must be approved in advance by the Civic Support Office
- 13.2 Costs which may be met from this Budget include
- travel outside of Borough, costs of small gifts such as flowers;
  - the cost of attending civic events by the Mayor and consort in Surrey district and other districts which adjoin Surrey Heath;
  - general expenses connected to the Mayoralty, such as the hiring of an official car together or the cost of receptions they wish to host.
- 13.3 The Mayor and the Civic Support Office should ensure that overall spend on the hospitality and civic functions does not exceed the Budget. The Civic

Support Office will provide the Mayor with a monthly statement of expenditure on the Civic Events Budget.

- 13.4 Payment for events which are to be claimed by The Mayor or Deputy Mayor must be paid for by them. A relevant proof of payment, in accordance with the Council's normal accounting procedures, must be provided to the Civic Support Office before reimbursement can be made. Alternatively, The Mayor or Deputy Mayor may also provide a cheque to the Civic Support Office which will be recorded.

#### **14. Use of the Mayor's Office and Parlour**

- 14.1 The Council has provided an office and a parlour for use by the Mayor and Deputy Mayor to undertake their duties. The Mayor and Deputy Mayor shall not use this accommodation for any other purposes without the prior consent of the Civic Support Office.
- 14.2 The accommodation is the asset of the Council under the control of the Civic Support Office.

#### **15. Acceptance of Gifts**

- 15.1 Personal Gifts – personal gifts received by the Mayor and Deputy Mayor must be declared in accordance with the Members' Code of Conduct at Part 5 Section A of the Council's Constitution.
- 15.2 Ceremonial Gifts – ceremonial gifts presented to the Mayor or Deputy Mayor shall be accepted for the Council and may not be retained by the Mayor or Deputy Mayor either during their municipal year or after. All such gifts shall be passed to the Civic Support Office who shall manage such gifts. Gifts received during the year may be displayed in the Mayor's Parlour.

#### **16. Mayoral Robes and Regalia**

- 16.1 The Robes should only be worn on formal civic ceremonial occasions including Council meetings, the annual civic service and at Remembrance Day services. Further advice should be sought from the Chief Executive on the appropriateness of wearing the Robes at other events.
- 16.2 The Robes are to be returned to the Civic Support Office two weeks before Annual Council. On a day to day basis, the Robes and Regalia are to be kept in the office, and only retained overnight when attending a late event and returned to the Office the following day.
- 16.3 Care must be taken in handling the Robes and Regalia. The Robes are to be kept in the suit bag when not being used or being transported for an event. The Robes and Regalia should not be left in a car unattended and should be insured on the Mayor's personal household insurance.
- 16.4 The Robes must not be taken outside of the UK.

## **17. Use of Images of the Mayor or Deputy Mayor in Election/Political Material**

- 17.1 It is considered inappropriate for the Mayor or Deputy Mayor to appear in any electoral material, whether associated with their election, or another candidate in any official robes or regalia. The Mayor and Deputy Mayor should use reasonable endeavours to avoid this occurring.

## **18. Media**

- 18.1 The Mayor will work with the Media and Marketing Team who have day to day responsibility for promoting the Mayor's activities and maximising its effectiveness.
- 18.2 Given the status of the Mayor and Deputy Mayor, all official communication relating to the Council (but not party political or private matters) should be dealt with by the Media and Marketing Team and the Civic Support Office advised accordingly.
- 18.3 The Mayor and Deputy Mayor should be aware that any private/party political communications they issue may bring their office, and the Council into disrepute, and they should always take care and seek advice before doing so.

## **19. Support from the Civic Support Office**

- 19.1 The Chief Executive and the Civic Support Office will provide to the Mayor and Deputy Mayor upon their appointment to office, information on:
- The Special Responsibility Allowances and the tax liabilities of the allowance.
  - The Civic Events Budget and how it may be used.
  - Local charities and regular yearly events and functions.
- 19.2 The Civic Support Office will
- Arrange appropriate events.
  - Provide instructions and guidance on the arrangements for events.
  - Manage the civic diary and ensure arrangements are in place.
  - Receive and follow up invitations.
  - Give advice and briefings as necessary.
  - Manage the Civic Events Budget and provide a monthly Budget Monitoring Statement to the Mayor.
  - Provide such other support as is necessary or appropriate.
- 19.3 The Civic Support Office and other officers work for the Council and are under the managerial control of the Chief Executive.

## **20. Mayoral Precedence and Civic Etiquette**

20.1 Attached at Annex A are the details of the Mayoral Precedence and Civic Etiquette.

**21. Application of this Protocol**

21.1 This Protocol as adopted by the Council at its meeting on 26 February 2020, will be included as a Document which supports the Constitution.

## **Mayoral Precedence and Civic Etiquette**

### **1. First Citizen**

- 1.1. The Mayor has statutory precedence as First Citizen of the Borough of Surrey Heath, i.e. they rank immediately after Members of the Royal Family, who always take precedence.
- 1.2. As First Citizen, the Mayor takes precedence over any other guest, no matter their title, role or responsibility at functions and events in Surrey Heath not attended by Members of the Royal Family.
- 1.3. The exception is when Her Majesty's Lieutenant (or a Deputy Lieutenant acting for the Lord Lieutenant) is attending in his/her official capacity representing the Sovereign or when any other person is present as the Sovereign's representative.

### **2. Processions**

- 2.1. At meetings of the Full Council, the Order of Precedence for proceeding into and leaving the Chamber, will be as follows:-
  1. Mayor
  2. The Deputy Mayor
  3. The Chief Executive

### **3. Seating at Civic and Ceremonial Events**

- 3.1. At Civic and Ceremonial Events and at other functions (i.e. a luncheon or dinner), unless Royalty (or a representative) is present, the Mayor should be placed to the immediate right of the person presiding. It is customary for those present to rise when the Mayor enters and leaves.
- 3.2. The seating at Civic Functions organised by the Council shall be in accordance with the following order of precedence.
  1. Mayor and Mayoress
  2. The Chief Executive
  3. The Leader
  4. The Deputy Mayor and Consort
  5. The Leader of the Opposition Group(s)
  6. Other Members of the Council
  7. Other Officers of the Council

### **4. Mode of address**

- 4.1. The description for the purpose of printed matter or announcement is "The Worshipful the Mayor of Surrey Heath, Councillor XXXXX" and when the



Mayoress is also present "The Worshipful the Mayor and Mayoress of Surrey Heath".

- 4.2. The correct manner of address for the Mayor is "Mister Mayor or Madam Mayor".

## **5. Robes and Regalia**

- 5.1. The Mayor normally wears their chain and badge of office at functions and events held within the Borough.
- 5.2. It is not normal for the Mayor to wear their robes at non Civic occasions, except in special cases or when the Mayor is visiting a school and it is considered desirable for the children to see their First Citizen so attired.

## **6. Time of arrival**

- 6.1. Unless otherwise requested, the Mayor can be expected to arrive approximately 10 minutes before the time of a luncheon or dinner; and five minutes before a meeting or similar function. They should be met at the door by some responsible person and escorted to the room where the function is being held.

## **7. Photographs and videos**

- 7.1. With their permission photographs and videos of the Mayor/Deputy Mayor attending functions and events can be taken but these must not be used for personal or commercial advertisement purposes.

## **8. Car**

- 8.1. The Mayoral car should be able to draw up without hindrance at the entrance to the building in which the function is taking place. Arrangements for parking the car near the entrance should be made.

## **9. Speeches**

- 9.1. If the Mayor or Deputy Mayor is required to preside at a meeting and/or make a speech, their agreement should be sought in advance. If a speech or toast is involved, then an appropriate speech or guidance notes should be provided at least five days before the function.

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