

# Public Document Pack

Democratic Services



## STANDARDS AND CONSTITUTION COMMITTEE

Tuesday 5 December 2023 at 7.30 pm

Place: Council Chamber, Epsom Town Hall

Online access to this meeting is available on YouTube: [Link to online broadcast](#)

The members listed below are summoned to attend the Standards and Constitution Committee meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Councillor Liz Frost (Chair)  
Councillor Hannah Dalton (Vice-Chair)  
Councillor Chris Ames

Councillor James Lawrence  
Councillor Robert Leach  
Councillor Chris Watson

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sing', is written over a faint circular stamp.

Chief Executive

For further information, please contact [democraticservices@epsom-ewell.gov.uk](mailto:democraticservices@epsom-ewell.gov.uk) or tel: 01372 732000

### **EMERGENCY EVACUATION PROCEDURE**

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- You should proceed calmly; do not run and do not use the lifts;
- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building, but move to the assembly point at Dullshot Green and await further instructions; and
- Do not re-enter the building until told that it is safe to do so.

## Public information

**Please note that this meeting will be held at the Town Hall, Epsom and will be available to observe live using free YouTube software.**

A link to the online address for this meeting is provided on the first page of this agenda. A limited number of seats will be available on a first-come first-served basis in the public gallery at the Town Hall. If you wish to observe the meeting from the public gallery, please arrive at the Town Hall reception before the start of the meeting. A member of staff will show you to the seating area. For further information please contact Democratic Services, email: [democraticservices@epsom-ewell.gov.uk](mailto:democraticservices@epsom-ewell.gov.uk), telephone: 01372 732000.

Information about the terms of reference and membership of this Committee are available on the [Council's website](#). The website also provides copies of agendas, reports and minutes.

Agendas, reports and minutes for this Committee are also available on the free Modern.Gov app for iPad, Android and Windows devices. For further information on how to access information regarding this Committee, please email us at [democraticservices@epsom-ewell.gov.uk](mailto:democraticservices@epsom-ewell.gov.uk).

## Exclusion of the Press and the Public

There are matters scheduled to be discussed at this meeting that would appear to disclose confidential or exempt information under the provisions of Schedule 12A of the Local Government Act 1972 (as amended). The Committee is likely to resolve to exclude the press and public during discussion of these matters by virtue of the private nature of the business to be transacted.

## Questions and statements from the Public

Up to 30 minutes will be set aside for questions and statements from members of the public at meetings of this Committee. Any member of the public who lives, works, attends an educational establishment or owns or leases land in the Borough may ask a question or make a statement on matters within the Terms of Reference of the Committee.

All questions must consist of one question only and cannot consist of multiple parts. Questions and statements cannot relate to planning or licensing committees matters, the personal affairs of an individual, or a matter which is exempt from disclosure or confidential under the Local Government Act 1972. Questions which in the view of the Chair are defamatory, offensive, vexatious or frivolous will not be accepted. Each question or statement will be limited to 3 minutes in length.

If you wish to ask a question or make a statement at a meeting of this Committee, please contact Democratic Services at: [democraticservices@epsom-ewell.gov.uk](mailto:democraticservices@epsom-ewell.gov.uk)

Questions must be received in writing by Democratic Services by noon on the third working day before the day of the meeting. For this meeting this is **Noon, Thursday 30 November 2023**.

A summary of statements must be received by Democratic Services by noon on the working day before the day of the meeting. For this meeting this is **Noon, Monday 4 December 2023**.

For more information on public speaking protocol at Committees, please see [Annex 4.2](#) of the Epsom & Ewell Borough Council Operating Framework.

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## **AGENDA**

### **1. QUESTIONS AND STATEMENTS FROM THE PUBLIC**

To take any questions or statements from members of the Public.

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

Members are asked to declare the existence and nature of any Disclosable Pecuniary Interests in respect of any item of business to be considered at the meeting.

### **3. MINUTES OF THE PREVIOUS MEETING (Pages 5 - 6)**

The Committee is asked to confirm as a true record the Minutes of the Meeting of the Committee held on 29 June 2023 (attached) and to authorise the Chair to sign them.

### **4. UPDATE TO THE COUNCIL'S CONSTITUTION (Pages 7 - 220)**

This report seeks to report back on the work that has taken place since August by the Monitoring Officer with the support of external Counsel in consultation with the Chair and Vice Chair of this Committee and CWG on updates to the Council's Constitutional required to give effect to the changes adopted back in May 2023.

### **5. COUNCILLOR CODE OF CONDUCT (Pages 221 - 262)**

This report considers the Councillor code of conduct, which has been reviewed by the Constitution Working group (CWG), and makes a recommendation for adoption.

### **6. INDEMNITY SCHEME FOR COUNCILLORS AND OFFICERS (Pages 263 - 270)**

The indemnity scheme has been reviewed by the Constitution Working Group (CWG) and this report sets out the recommended changes to wording.

### **7. REVIEW OF CODE OF CONDUCT COMPLAINTS (Pages 271 - 274)**

To provide an update on complaints made under the Code of Conduct for Members from 1/2/2022 to 27/11/2023.

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**Minutes of the Meeting of the STANDARDS AND CONSTITUTION COMMITTEE  
held at the Council Chamber, Epsom Town Hall on 29 June 2023**

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**PRESENT -**

Councillor Liz Frost (Chair); Councillor Hannah Dalton (Vice-Chair); Councillors Chris Ames, James Lawrence, Robert Leach and Chris Watson

Officers present: Andrew Bircher (Interim Director of Corporate Services), Brendan Bradley (Head of Finance), Piero Ionta (Head of Legal Services and Monitoring Officer) and Tim Richardson (Democratic Services Manager)

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**1 QUESTION AND STATEMENTS FROM THE PUBLIC**

No questions or statements were received from members of the public.

**2 DECLARATIONS OF INTEREST**

No declarations of interest were made in relation to items of business to be discussed at the meeting.

**3 MINUTES OF THE PREVIOUS MEETING**

The Minutes of the Meeting of the Standards and Constitution Committee held on 25 January 2023 were agreed as a true record and signed by the Chair.

**4 FINANCIAL POLICY PANEL REVIEW**

The Committee received a report providing an appraisal of the implementation of changes to financial decision-making procedures and committee responsibilities as agreed by Full Council in February 2022. The report recommended further changes to the Council's constitution for the Committee's consideration.

Following consideration, the Committee unanimously resolved to:

- (1) Consider the proposed changes to Financial Policy Panel's responsibilities, as set-out in sections 3 & 4 of the report;**
- (2) Recommend that Full Council approve the proposed changes set-out in the report, including the re-naming of Financial Policy Panel to Financial Strategy Advisory Group.**

**5 ESTABLISH A STANDARDS AND CONSTITUTION WORKING GROUP**

The Committee received a report proposing the establishment of a working group to take forward the work of the Standards and Constitution Committee.

Following consideration, the Committee unanimously was resolved to:

- (1) Establish a working group as set out in the report to take forward the work of the Standards and Constitution Committee.**

**6 COMMITTEE WORK PROGRAMME**

The Committee received a report setting out its future work programme.

The following matter was considered:

- a) Special meetings.** The Committee noted that additional Special meetings of the Committee might be necessary in order to consider proposals from the Constitution Working Group and for their onward recommendation to the Full Council.

Following consideration, the Committee unanimously resolved to:

- (1) Agree the future work programme for the committee.**

*The meeting began at 7.49 pm and ended at 8.00 pm*

COUNCILLOR LIZ FROST (CHAIR)

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## UPDATE TO THE COUNCIL'S CONSTITUTION

<b>Head of Service:</b>	Piero Ionta, Head of Legal and Monitoring Officer
<b>Wards affected:</b>	(All Wards);
<b>Appendices (attached):</b>	Appendix 1 – Modular Constitution (2000) (Institute for Local Government Studies) <b>(see agenda supplement)</b> Appendix 2 – Updated Scheme of Delegation and Live Delegations List (Appendix 2 to the Constitution) Appendix 3 – Updated Terms of Reference for Full Council and Committees (Appendix 3 to the Constitution) Appendix 4 – Updated Standing Orders Full Council (Appendix 4 to the Constitution) Appendix 5 – Updated Annex 2-4 - Protocol for Managing Councillor - Officer Relations Appendix 6 – Updated Annex 3-3 – Monitoring Officer Protocol Appendix 7 – Updated Annex 4-2 - Protocol Members of Public Speaking Appendix 8 – Updated Annex 4-7 - Code of Conduct and Procedure in Licensing Matters Appendix 9 – Updated Annex 5-1 - Financial Regulations Appendix 10 – Updated Annex 5-2 - Contract Standing Orders Appendix 11 – Updated Annex 5-3 – Sealing documents Appendix 12 – Updated Annex 6-2 - Complaints Process Exempt Appendix 13 – Advice note from Counsel

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### **Summary**

This report seeks to report back on the work that has taken place since August by the Monitoring Officer with the support of external Counsel in consultation with the Chair and Vice Chair of this Committee and CWG on updates to the Council's Constitutional required to give effect to the changes adopted back in May 2023.

### **Recommendation (s)**

**The Committee is asked to recommend that full Council:**

- (1) Approve the updated Appendices (2, 3 and 4) and Annexes (2-4, 3-3, 4-2, 4-7, 5-1, 5-2, 5-3 and 6-2) so that they be adopted.**

**The Committee is asked to:**

- (2) Agree that the Standard and Constitution Working Group review its Work Plan for this municipal year and bring a revised work programme to the next meeting of this Committee.**

#### **1 Reason for Recommendation**

- 1.1 To provide the council with a constitution that is updated to provide effect to changes approved by full Council in May 2023.

#### **2 Background**

- 2.1 Members will recall that this Council's Constitution was reviewed during 2022-23 by the Council's Standards and Constitution Committee Member Working Group with the recommended changes being adopted by full Council at its Annual General Meeting held on 23 May 2023.



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- 2.2 In January 2022, Strategy and Resources Committee agreed that a cross-party working group be set up to take forward a full review of the council's constitution. This group was called the Constitution Working Group ("CWG"). In the July 2022 report to Full Council, it was proposed to move away from the traditional format of a Council's Constitution toward a "centre and spoke" model. That work was carried out over the remainder of 2022 with a report back to Full Council on 14 February 2023 with recommendations to adopt a new Constitution as of the new municipal year that began in May 2023. At its Annual General Meeting in May 2023, the current Constitution in its new format was formally adopted and has been in operation ever since.
- 2.3 It was noted in the report to Full Council in February 2023 that:
- 2.3.1 *"A complete re-structuring of a document of this kind will naturally carry risks around potential inconsistency and what is included and excluded..."* (Para 4.42)
- 2.4 The Head of Legal and Monitoring Officer ('Monitoring Officer') is charged with reviewing the Constitution on an annual basis and as part of that process, it became clear that the intended purpose of the Scheme of Delegation as set out in Appendix 2 to the Constitution required amendment to operate as intended. A number of immediate updates required the approval of Full Council and were adopted in July 2023 with some further changes adopted on 9 August 2023 by way of an urgent decision in accordance with the urgency provisions provided by the changes introduced in July 2023.
- 2.5 This report seeks to report back on the work that has taken place since August by the Monitoring Officer with the support of external Counsel in consultation with the Chair and Vice Chair of this Committee and CWG.

**3 Updates to be recommended to Full Council for adoption****3.1 Appendix 2 – Scheme of Delegation**

- 3.1.1 The Council is required to operate a lawfully adopted Constitution further to provisions under the Local Government Act 2000 and Localism Act 2011.
- 3.1.2 Section 101 of the Local Government Act 1972 details the arrangements for the discharge of functions. Subsection (1) provides that a local authority may arrange for the discharge of any of their functions by a committee or an officer of the authority.

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- 3.1.3 With the number of decisions required to be taken on a daily basis of an operational manner, a Scheme of Delegation setting out what decisions and actions officers may take on behalf of the council is an important document within any Council's Constitution.
- 3.1.4 Delegation in this sense means conferring authority on an officer to make decisions within the parameters of the delegation arrangements; so the officer cannot pass on the decision-making authority to another officer (respecting the maxim of '*delegatus non potest delegare*').
- 3.1.5 Section 100G (2) of the Local Government Act 1972 states:
- A principal council shall maintain a list—*
- (a) specifying those powers of the council which, for the time being, are exercisable from time to time by officers of the council in pursuance of arrangements made under this Act or any other enactment for their discharge by those officers; and*
- (b) stating the title of the officer by whom each of the powers so specified is for the time being so exercisable;*
- 3.1.6 Further to the changes brought about by the Local Government Act 2000, the Institute for Local Government Studies (INLOGOV) were commissioned by the then Department of Environment, Transport and the Regions (DETR) to produce a Modular Constitution. As the 2000 Act introduced a new governance model for local authorities (cabinet rather than committee), the modular Constitution address both models of governance. This document has been used in local government to produce their constitutions over the last 23 years and remains a starting point for any review of a Council's constitution.
- 3.1.7 By way of Appendix 2 to the Council's Constitution, the Council has sought to comply with the section 100G(2) requirement.
- 3.1.7 The updates to Appendix 2 before this Committee for its recommendation to Full Council on 12 December 2023 seeks to adopt the following best practice with reference to the Model Constitution (see Appendix 1):
- 3.1.7.1 To recognise that Senior Officers (Chief Executive, Directors and Heads of Service) are delegated authority to take decisions within their respective services areas unless full council or a Committee has reserved that authority to itself;

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3.1.7.2 To clarify that those same Senior Officers who receive delegated authority can then “nominate” or “authorise” another officer to exercise that power provided that officer is in the service area of the authorising senior officer.

3.1.7.3 To replace Appendix 2a and adopt a Live Register of Delegations (‘Register’) which details any officers other than senior officers to whom the Council delegates authority or appoints them to fulfil a statutory role; with authority for the Monitoring Officer to update the Register as and when required to do so upon requests received from Senior Officers.

3.1.7.4 To add a footnote to record that this update was made with reference to the judgement of *Pemberton International Limited v London Borough of Lambeth v Mr Shahrokh Parvin* [2014] EWHC 1998 (Admin), to demonstrate that the Council has considered the lawfulness of its scheme of delegation, and the basis for it.

3.1.7.5 To clarify that where an Officer is empowered by this Scheme of Delegation, the Financial Regulations, and the Contract Standing Orders to make procurement decisions within their budget, that they shall have all the necessary authority and powers to make such procurement decisions; and where an Officer requires Council or Committee approval to make procurement decisions which are not within their budget, that their authority and powers to make such procurement decisions shall only be valid upon receipt of approval from Full Council or Committee.

3.1.7.6 To clarify that Contract Standing Orders and Financial Regulations contained within the Operating Framework to the Constitution must be operated in accordance with this Scheme of Delegation.

3.1.7.7 To transfer across the Planning Scheme of Delegation into the Register.

3.1.7.8 To clarify that the appointment of Directors is delegated to a Panel in accordance with the provision of Annex 3-2 (section 3) as approved by Council previously.

## **3.2 Appendix 3 – Terms of Reference for Full Council and Committees**

3.2.1 Further to the updates to the Scheme of Delegation, a number of updates were identified within Appendix 3 to reflect those updates:

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3.2.1.1 To clarify the role of Strategy and Resources which is to intercede in matters that is not clearly in the purview of any of the Committee's Terms of Reference and to empower the Chair of the Strategy and Resources Committee, in consultation with the Monitoring Officer, to determine who shall make the decision, and/or if any amendments to the Terms of Reference are needed to rectify a gap.

3.2.1.2 To clarify the role of Strategy and Resources Committee to intercede where a decision or action needs to be taken that falls within the purview of two or more Terms of Reference, empowering the Chair of the Strategy and Resources Committee, in consultation with the Monitoring Officer, to resolve any such conflict and determine who shall make the decision, and/or if any amendments to the Terms of Reference are needed to rectify an overlap.

3.2.1.3 To add any necessary cross reference to the updated Scheme of Delegation.

3.2.1.4 To clarify the role of Full Council in appointing the Independent Remuneration Panel and remove reference to the appointment of Directors (see 3.1.7.8 above)

3.2.1.5 To clarify that all Policy committees must refer decisions to Strategy and Resources Committee for approval where a new or changed policy will have a budget impact outside the budget approved by the Full Council.

3.2.1.6 To clarify that all Policy Committees are not obliged to make recommendations to Full Council in order to adopt a new policy or changes to previously adopted policies.

3.2.1.7 To update the Area of Responsibility of Crime and Disorder Committee so that it may:

a. Make recommendations to Strategy and Resources Committee for any items of expenditure outside the budget approved by the Full Council, and

b. Empower the Chair of Crime and Disorder Committee to have oversight of the Community Safety budget (held and overseen by Strategy and Resources Committee) along with the Community Safety Reserves.

## Standards and Constitution Committee

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3.2.1.8 To update the Terms of Reference for Planning Committee and ensure that it reflects the updates made to the Scheme of Delegation.

**3.3 Appendix 4 – Standing Orders Full Council**

3.3.1 Further to recommendations received from CWG, updates have been made to FCR 11 - Chairs' statements to Full Council – so as to increase the time allowed from 15 minutes to 30 minutes and to also clarify the way questions may be asked and the Mayor's role in overseeing this part of the meeting.

**3.4 Annex 2-4 - Protocol for Managing Councillor - Officer Relations**

3.4.1 A number of minor amendments that could have been made under the Monitoring Officer's authority to make minor changes; clarifying the role of the Monitoring Officer to be informed of any relationships that need declaration, removal of gendered references and updating references to reflect the updated Scheme of Delegation.

**3.5 Annex 3-3 – Monitoring Officer Protocol**

3.5.1 The role of 'proper officer' regarding access to information is reassigned to the Chief Executive in line with the existing wording of Annex 2-4 (section 4).

**3.6 Annex 4-2 - Protocol Members of Public Speaking**

3.6.1 In light of recent repeated advice that the Monitoring Officer has provided to Members regarding this Annex, this has been updated to clarify the position regarding questions and statements.

**3.7 Annex 4-7 - Code of Conduct and Procedure in Licensing Matters**

3.7.1 In light of recommendations received by the Monitoring Officer from the Council's Senior Licensing Officer, this has been updated to provide greater clarity as to the procedure of sub-committee hearings.

**3.8 Annex 5-1 - Financial Regulations**

3.8.1 Updates have been made to reflect the updated Scheme of Delegation and changes in technology (removing reference to "fax" and replacing with "email")

**3.9 Annex 5-2 - Contract Standing Orders**

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3.9.1 This was reviewed by the former Procurement Manager for the Council in September 2023; changes have been made to reflect legislative changes (in particular CSO 11.3, 26 and 30) and subsequent updates to reflect the updated Scheme of Delegation. Officers across the Council were provided training on these updates prior to the recent departure of the former Procurement Manager.

**3.10 Annex 5-3 – Sealing documents**

3.10.1 No substantive change has been made save to clarify that the Council's seal may also be applied electronically; a minor amendment that could have been made under the Monitoring Officer's authority to make minor changes.

**3.11 Annex 6-2 - Complaints Process**

3.11.1 No substantive change has been made save to clarify some wording used; a minor amendment that could have been made under the Monitoring Officer's authority to make minor changes.

3.12 Noting advice provided to Members in reports concerning the Constitution in 2022 and 2023, it is restated that that minor changes, and those reflecting decisions made by Full Council, can be updated by the Monitoring Officer at any time. Significant changes that alter the meaning of a passage or a process will require approval by Full Council. Of those documents noted above, any gendered references have also been removed, where possible, from the proposed updated documents.

3.13 Mindful of the number of elements of the Constitution that have been updated, advice has been sought from external counsel who have supported this work over the past few months which is provided as a Part II Appendix to this report (Exempt Appendix 13).

**Work Plan of CWG**

3.14 Full Council at its meeting held on 14 February 2023 set a Work Plan of this Committee for this municipal year to include the following items:

3.14.1 Review of the current Members' Code of Conduct and the Local Government Association's Model Councillor Code of Conduct, with a view to proposing whether to adopt the latter.

3.14.2 Review the timings related to people speaking to ensure they are appropriate and consistent, as well as procedures relating to motions.

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- 3.14.3 Review the Annex 2.6 – Indemnities to Councillors and Officers in more detail to ensure it is appropriate and up to date.
  - 3.14.4 Consider reviewing specific elements of the constitution from an equalities perspective, to enable further time to be dedicated to this aspect of the constitution and operating framework.
  - 3.14.5 Consideration of any complaints that have been made against councillors
- 3.15 As noted within the report to Full council in February 2023, the “Financial Regulations” and “Contract Standing Orders” were not reviewed by the CWG, as they had been at that time recently updated.
- 3.16 It is noted that in addition to this report, this Committee has three separate reports addressing
- 3.16.1 the Code of Conduct for Members
  - 3.16.2 complaints made against Councillors, and
  - 3.16.3 Indemnities to Councillors and Officers
- 3.17 It is therefore recommended that CWG review what is left on their work plan and consider what priorities remain to be considered in the remainder of this municipal year and to then focus on the work plan for the next municipal year (i.e. May 2024 – April 2025).

#### 4 Risk Assessment

Legal or other duties

##### 4.1 Equality Impact Assessment

- 4.1.1 The CWG are of the view that the proposed constitution and council operating framework will have positive equality impacts, namely by: being easier to read, the removal of gendered language, and being easier to keep up to date.
- 4.1.2 An equality impact assessment has been completed and reviewed by the CWG. While no significant impacts were identified within the scope of this project, a few suggestions were made as pieces of work to follow the project, such as: induction training to councillors to ensure they have a good understanding of their role in this area, and conducting a more in-depth review of specific appendices from an equalities perspective. Where appropriate these suggestions have been included in proposed service plans for next year.

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### 4.2 Crime & Disorder

4.2.1 None for the purposes of this report.

### 4.3 Safeguarding

4.3.1 None for the purposes of this report.

### 4.4 Dependencies

4.4.1 The council's constitution is its primary governance document. Therefore, much of the council's business and operations depends on its contents.

### 4.5 Other

4.5.1 None for the purposes of this report.

## 5 Financial Implications

5.1 None for the purposes of this report.

5.2 **Section 151 Officer's comments:** None arising from the contents of this report.

## 6 Legal Implications

6.1 **Legal Officer's comments:** All relevant comments are contained in within the body of the report above.

## 7 Policies, Plans & Partnerships

7.1 **Council's Key Priorities:** The following Key Priorities are engaged:

- Effective Council.

7.2 **Service Plans:** The matter is included within the current Service Delivery Plan.

7.3 **Climate & Environmental Impact of recommendations:** Not applicable.

7.4 **Sustainability Policy & Community Safety Implications:** Not applicable

7.5 **Partnerships:** Not applicable.



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**8 Background papers**

8.1 The documents referred to in compiling this report are as follows:

**Previous reports:**

- None

**Other papers:**

- None

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## Appendix 2 – Scheme of Delegation to Officers

### 1. Introduction

1.1. This scheme of delegation authorises the Chief Executive, the Director of Corporate Services and the Director of Environment, Housing and Regeneration, along with all Heads of Service to exercise the functions of the council as set out in this document. It repeals and replaces all previous schemes of delegation.

1.2. This scheme is without prejudice to the exercise of the council's functions by the Full Council and the council's committees, sub-committees and panels.

1.3. The statutory officers' responsibilities are set out in the Framework (Annex 3.1) where a chart of the senior management structure is available. "Head of Service" means the Heads of Service reporting to the Chief Executive and / or a Director. All powers with the scheme of delegation are exercised within approved budgets.

~~1.3.~~1.4. "Service area" means each and any specific area or department responsible for delivering services and functions to residents, and those necessary for the functioning of the council.

### 2. General delegation to officers

2.1. The Chief Executive, ~~and~~ Directors, and Heads of Service are empowered to make decisions on behalf of the council in accordance with the following general principles:

- i. If a function, power or responsibility has not been specifically reserved to the Full Council or a committee, or the council acquires a new function where a decision is required before delegations have been agreed, the Chief Executive, ~~or~~ Directors, or Heads of Service within whose ~~remit~~ service area the matter falls, is authorised to act.
- ii. ~~The Full Council and other council committees will make decisions on matters of significant policy.~~ The Chief Executive, ~~and the~~ Directors, and Heads of Service have express authority to take all necessary actions to implement Full Council and committee decisions that commit resources, within agreed budgets in the case of financial resources, as necessary and appropriate.
- iii. The Chief Executive, ~~and the~~ Directors, and Heads of Service are empowered to take all operational decisions, within agreed policies, in relation to the services for which they are responsible.
- iv. The Chief Executive, ~~and the~~ Directors, and Heads of Service are empowered to take all necessary decisions in cases of emergency or urgency.

~~v. — The Chief Executive, Directors, and Heads of Service to whom a power has been delegated may nominate or authorise another officer to exercise that power provided that officer is in the service area of the authorising Chief Executive, Director, or Head of Service. <sup>1</sup>In relation to all delegated authority conferred on the Chief Executive and Directors by this scheme, the Chief Executive may allocate or~~

v. The Chief Executive, Directors, and Head of Service are empowered to update the Live Register of Delegations.

~~re-allocate responsibility for exercising particular powers to any officer of the council in the interests of effective corporate management as they t~~

vi.

vii. Where there is doubt over the responsibility for the exercise of a delegated power, the Chief Executive, ~~and Directors, are or their nominee, is~~ authorised to act.

viii. Anything delegated to the Head of Legal Services is also delegated to the Chief Executive.

ix. These delegations should be interpreted widely to aid the smooth running of the organisation, the effective deployment of resources and the efficient delivery of services.

2.2. For the purposes of this scheme, emergency and urgency have the ordinary dictionary meaning of the words and may imply considerations of health and safety, legal and financial risk, or that the interests of the council may be compromised. In the absence of the Chief Executive, a Director will exercise emergency or urgency powers in the same way.

~~2.3. — In deciding whether or not to exercise delegated powers, the Chief Executive and the Directors should consider whether to consult the appropriate Group Leader / Chair, or Committee Chair, and have regard to their views. Officers shall always be entitled to refer matters for decision to the appropriate member body where they consider it expedient to do so.~~

~~2.4.2.3. —~~ The Chief Executive and the Directors, to whom a power has been delegated, may authorise-nominate officers in their service areas to exercise that power. ~~, on their behalf, powers delegated under this scheme, and there~~ There will be a presumption that all operational and budgetary responsibility for services shall be exercised by the Head of Service for the appropriate services, unless the Chief Executive directs otherwise.

~~2.5.2.4. — All delegations conferred under this scheme must be formally recorded in writing by the Chief Executive, and the Directors as the case may be~~

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<sup>1</sup> This paragraph is based on the wording in paras. [45]-[46] of *Pemberton International Limited v London Borough of Lambeth v Mr Shahrokh Parvin* [2014] EWHC 1998 (Admin), which was approved in para. [53] of the judgment.

~~(including for the avoidance of doubt any delegation under paragraph 2.1 (v) and 2.4 above). Any decision taken under such authority shall remain their responsibility, and must be taken in their name. The Head of Place Development and the Development Management Manager shall exercise, in their own names, any powers delegated to them in connection with the determination of planning applications or any other planning function and such decisions shall remain their responsibility.~~

~~2.6.2.5. \_\_\_\_\_ The Chief Executive will make such arrangements as they consider appropriate to maintain a~~ All delegations conferred under this scheme must be formally recorded in writing by the Chief Executive the Directors, and the Heads of Service as the case may be (including for the avoidance of doubt any delegation under paragraph 2.1 (v) and 2.3 above). A Live Register of Delegations, which is a central record of all delegations under this scheme, must be maintained. The Live Register of Delegations must be updated to reflect any changes within a reasonable time. The record will be available for public inspection. Subject to any specific restriction in writing:

- i. A reference to any other officer will include a person who is deputising (whether in full or part time or on an absence basis) for that post. Such deputising arrangements should be made in

accordance with any scheme of delegation and should be authorised in writing.

- ii. Any function or power which may be discharged to any officer under a scheme of delegation may also be discharged by a person holding a post which is a successor post to that of the original post following any reorganisation, restructure, or similar process.

iii. In exercising these delegated powers the officers concerned shall have broad discretion, subject to complying with all relevant legislation, the council's Constitution, including its contract and financial procedures and regulations, and overall council policy, to use the most efficient and effective means available, including the deployment of staffing and other resources within their control and the procurement of other resources necessary, whether within or outside the council.

~~iii-iv.~~ Where an Officer is empowered by this Scheme of Delegation, the Financial Regulations, and the Contract Standing Orders to make procurement decisions within their budget, they shall have all the necessary authority and powers to make such procurement decisions without the need to obtain approval from Full Council or Committee.

v. Where an Officer requires Council or Committee approval to make procurement decisions which are not within their budget, they shall have all the necessary authority and powers to make such procurement decisions upon receipt of approval from Full Council or Committee.

~~iv-vi.~~ Officers shall act, so as to achieve for their service, the policies and objectives including the requirements of any service delivery plans for their service area; always having regard to the overall corporate plans and interests of the council.

~~v.~~ Where an officer referred to in paragraph 2.4 above is absent from the workplace for a period of time, which requires others to exercise delegated authority in that officer's absence, another officer should be nominated by the Chief Executive. This nomination should be formally recorded in writing.

~~vi-vii.~~ Notwithstanding anything contained in this scheme of delegation, officers shall not have the power to make decisions upon any matter that has been reserved to Full Council or a committee except in cases of emergency.

2.5.1. Where a power has been delegated to persons nominated by the Chief Executive the Directors, and Heads of Service, any decision taken under such authority shall remain the responsibility of the Chief Executive the Directors, and Heads of Service as the case may be, and must be taken in their name. The Head of Place Development and the Development

Management Manager shall exercise, in their own names, any powers delegated to them in connection with the determination of planning applications or any other planning function and such decisions shall remain their responsibility.

2.6.1.2.5.2. Without prejudice to the generality of the foregoing, the Chief Executive and the Directors shall have the power:

- i. To take all lawful action consistent with overall council policy to deliver agreed strategies, plans and policy within their area of responsibility and within approved budgets. This shall include, but not exhaustively:
  - a. Invitation and acceptance of tenders in accordance with Contract Standing Orders.
  - b. Submission of bids for funding.
  - c. Write-off of irrecoverable debts.
  - d. Virement (within the budget framework).

- e. Disposal and acquisition of assets.
  - f. Service and placing of any necessary statutory or other notices (other than those expressly reserved to the Full Council or a committee).
  - g. In consultation and with the consent of the Head of Legal Services authorising the institution, defence or appearance in criminal or civil proceedings in relation to any legislation that they are responsible for monitoring, enforcing or otherwise implementing on behalf of the council.
- ii. To put in place management arrangements, which define the area of responsibility of all officers under their area of responsibility.
  - iii. In the case of any overspend to notify the Chief Finance Officer in the role of Section 151 Officer in accordance with the financial procedure rules and regulations.
  - iv. To determine staffing arrangements within approved budgets, subject to agreement on grading with the Head of People and Organisational Development and conformance with council policies.
  - v. To take all action to recruit, appoint, develop, manage and reward employees within approved council policies and procedures (including operation of policies for voluntary severance, early retirement, redundancy and redeployment), and relevant conditions of service: subject to paragraph 2.6.2 below.

2.5.3. For the avoidance of doubt, the Contract Standing Orders and the Financial Regulations must be operated in accordance with this Scheme of Delegation.

~~2.6.2.~~2.5.4. For the avoidance of doubt the appointment of the Chief Executive and Directors and other statutory officers shall be made by Full Council (see the [Framework](#), Annex 3.2).

### **3. Taking decisions, including urgent non-delegated decisions**

**3.1. The Chief Executive and Directors are authorised to take decisions on grounds of urgency regarding matters which would otherwise be reserved for determination by a Committee or Council. A matter can be deemed urgent if, in the reasonable opinion of the officer concerned, a delay would seriously prejudice the interest of the Council or of the public and it is not practicable to convene a quorate meeting of the relevant decision-making body in sufficient time to take the decision. The officer concerned shall also**

- i. Advise and seek the views of the Chair and/or Vice Chair of the appropriate Committee at the earliest opportunity.**
- ii. Report the matter to the next scheduled meeting of the appropriate**



Committee; and

- iii. Ensure all members are advised at the earliest opportunity (via MemberNews currently).

3.2. In taking any decision, the officer concerned must be satisfied that the following issues have been considered and actions taken where appropriate. All of these issues should be considered at the earliest possible stage:

- i. The views of the relevant committee Chair following the application of the consultation criteria set out in paragraph (iii) below.
- ii. The implication of any council policy, initiative, strategy or procedure. Officers need to be aware of any potential impact of a delegated decision in other areas. In such cases, consultation with officers, relevant committee Chairs and local councillors, where the issue relates to a specific area, should take place.
- iii. Consultation and the views emanating from that process.
- iv. The range of available options.
- v. The staffing, financial and legal implications.
- vi. The assessment of any associated risks in accordance with the council's Risk Management Strategy.
- vii. The involvement of appropriate statutory officers.
- viii. The relevance of any regional or national guidance from other relevant bodies.
- ix. The council's Constitution, its contract and financial procedures and regulations, all relevant guidance, legislation and codes of practice.
- x. The need to secure Best Value.

3.3. In order to assist with the above, arrangements should be made by relevant officers to deal with times of absence, such as holidays. This could, for example, be through a named alternative.

#### **4. Scrutiny**

4.1. For the purposes of Audit and Scrutiny Committee:

- i. A report should be presented annually to the Audit & Scrutiny Committee setting out significant delegated decisions taken by officers under delegated powers in the previous year.
- ii. Any councillor may request that (with the exception of decisions made by the Planning Committee and licensing hearings) decisions taken by officers under delegated powers are scrutinised by the Audit and Scrutiny Committee.
- iii. Any such scrutiny will not make any action taken as a result of the

decision invalid. However, the scrutiny body will be able to recommend improvements to the process or a different course of action in future.

4.2. For further information on the council's overview and scrutiny procedures see the [Framework](#) (Annex 4.6).

## **5. Legal and procedural**

5.1. The Head of Legal Services is authorised:

- i. To take any action to implement any decision taken by or on behalf of the council, including the signature and service of statutory and other notices and any document.
- ii. To institute, defend, settle 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.

iii. To instruct counsel, solicitors and other experts ~~for legal proceedings, public inquiries, and other matters involving the council.~~

iv. To enter objections to any proposal affecting the Borough, the council, or the inhabitants of the Borough.

v. To update the central record of all delegations in the Live Register of Delegations.

~~iv-vi.~~ To exercise any powers identified as belonging to the Head of Legal Services within the Operating Framework, Standing Orders, Financial Regulations, and Contract Standing Orders.

5.2. For the avoidance of doubt anything which is not covered by this scheme, including the appointment of a Proper Officer for the purpose of any statutory function, will be determined by the Chief Executive.

## **6. Financial and procedural**

6.1. The Chief Finance Officer and Head of Finance are both authorised to take any action that:

6.1.1. Is required for them to comply with their duties as set out in the Council's Financial Regulations (see Annex 5.1),

6.1.2. is necessary to give effect to decisions of the council, or

6.1.3. in any case where the Chief Finance Officer considers that such action is necessary to protect the council's interests.

## **7. General indemnity**

7.1. The council has given a general indemnity to any officer acting in the purported discharge of any authority delegated to them for any action, costs, claim or liability incurred by them (see the Framework, Annex 2.5).

## **8. Proper Officer functions**

8.1. A list of Proper Officer functions will be maintained by the Head of Legal Services.

## **9. Maintenance, review and change to schemes of delegations**

~~9.1. The Chief Executive and the Directors will establish and maintain a scheme of delegation for their directorates or budget areas, which specifies the function; names the post which may carry out the delegated decision and the limits, if any, on the delegation. The limits on the delegation will include the obligation to consult, record and/or refer back to the Chief Executive or a Director in certain circumstances.~~

~~9.2.9.1.~~ The Chief Executive and the Head of Legal Services are authorised to approve any minor or incidental changes to any scheme of delegation.

## ~~10. Planning Scheme of Delegation~~

### ~~10.1. Introduction~~

~~10.1.1. The terms of reference of the Planning Committee include responsibility to determine the level of delegation to officers. It is important that there is clarity as to which decisions officers can determine and which the Planning Committee must determine.~~

### ~~10.2. Scheme of Delegation~~

~~10.2.1. The Head of Place Development, Development Management Manager and Planning Policy Manager may determine all matters arising from all legislation relating to the use and development of land, except for those matters set out~~

~~in paragraph 9.2.2, which shall be determined by the Planning Committee. In the event any of these officers think it necessary or appropriate, they may at their discretion, refer any matter for consideration and / or determination by the Planning Committee, and shall inform the Chair of Planning Committee accordingly.~~

~~10.2.2. The matters which shall be determined by the Planning Committee are included in its terms of reference (see Appendix 3).~~

~~10.2.3. A Planning Committee member or any councillor may call in a matter for determination by the Planning Committee in accordance with the procedure outlined in the Framework (Annex 4.8, Section 8).~~

~~10.2.4. The request to “call in” an application must be on relevant planning grounds and merit intervention to have the application placed before the Planning Committee. Where the “call in” is not made on material planning grounds the “call in” will be invalid. The decision as to whether the grounds are justifiable will be at the discretion of the Head of Place Development in consultation with the Chair of Planning Committee and the councillors concerned.~~

### ~~10.3. Section 106 agreements~~

~~10.3.1. The Head of Place Development is authorised to:~~

- ~~i. Agree the terms of, and variations to, Section 106 agreements under the Town and Country Planning Act 1990 in connection with the grant of planning permission granted under appeal.~~
- ~~ii.i. Refuse to enter into a Section 106 agreement if the same has not been completed within 6 months of the Planning Committee having granted planning permission, subject to a Section 106 agreement, without the need to return the matter to the Planning Committee.~~

## Appendix 2.1 – Live Register of Delegations

### 1. Introduction

- 1.1. This is the Live Register of Delegations maintained in accordance with Appendix 2. The Chief Executive, the Directors, and the Heads of Service are responsible for maintaining the Live Register of Delegations. The Live Register of Delegations must be updated to reflect any changes within a reasonable time.
- 1.2. The specific functions of the Council set out in column 3 below are delegated to the corresponding officers listed in column 2 (or any temporary replacement post holder nominated in accordance with paragraph 2.3 of the Scheme) subject to the requirements and limits of this Scheme of Delegation.

### 2. Standards and Constitution Scheme of Delegation

No	Title of Post Holder	Function Delegated	Date
SC1	Hearing Panels	Determination of complaints referred by an Investigating Officer regarding alleged breaches of the councillors' Code of Conduct	
SC2	Monitoring Officer in consultation with Chair of the Standards and Constitution Committee	To grant dispensations in situations where so many councillors of the decision-making body have Disclosable Pecuniary Interests in a matter that it would otherwise impede the transaction of the business	
SC3	Monitoring Officer	Determination of matters in respect of the councillors' Code of Conduct and arrangements for dealing with allegations of breach (following consultation with the Independent Person where required) except for those which are identified as reserved for determination by the Full Council, other committees, or Hearings Panels.	

### 3. Planning Scheme of Delegation

- 3.1. The terms of reference of the Planning Committee include responsibility to determine the level of delegation to officers. It is important that there is clarity as to which decisions officers can determine and which the Planning Committee must determine.

No	Title of Post Holder	Function Delegated	Date
P1	Head of Place Development, Development Management Manager, Planning Policy Manager	<p>Determination of all matters arising from all legislation relating to the use and development of land.</p> <p>Should any of these officers think it necessary or appropriate, they may at their discretion, refer any matter for consideration and / or determination by the Planning Committee, and shall inform the Chair of Planning Committee accordingly. A Planning Committee member or any councillor may call in a matter for determination by the Planning Committee in accordance with the procedure outlined in the Framework (Annex 4.8, Section 8).</p> <p>The request to “call-in” an application must be on relevant planning grounds and merit intervention to have the application placed before the Planning Committee. Where the “call in” is not made on material planning grounds the “call-in” will be invalid. The decision as to whether the grounds are justifiable will be at the discretion of the Head of Place Development in consultation with the Chair of Planning Committee and the councillors concerned.</p>	
P2	Chief Executive, Directors, Heads of Service	To authorise, in writing, Officers to enter on to land or to apply for a warrant and thereafter enter land pursuant to sections 196A-196C and 214B-214D of the Town and Country Planning Act 1990 as amended	
P3	Head of Place Development	Agree the terms of, and variations to, Section 106 agreements under the Town and Country Planning Act 1990 in connection with the grant of planning permission granted under appeal.	
P4	Head of Place Development	To refuse to enter into a Section 106 agreement if the same has not been completed within 6 months of the Planning Committee having granted planning permission, subject to a Section 106 agreement, without the need to return the	

	matter to the Planning Committee.	
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#### 4. Parking & Environmental Enforcement Scheme of Delegation

4.1. For this scheme of delegation, the relevant legislation has been added for further clarity.

No	Title of Post Holder	Legislation	Function Delegated	Date
PEE1	Parking & Enforcement Manager	Traffic Management Act 2004	To make decisions regarding the issuing of Penalty Charge Notices, cancellations and write offs. To instruct Enforcement Agents (bailiffs) to remove a vehicle, act upon a warrant or stand down	
PEE2	Parking & Enforcement Manager	Epsom & Ewell Borough Council Off Street Parking Places Order March 2022 variation 1	To charge a lost token fee or make a discretionary decision about a parking charge within our car parks	
PEE3	Parking & Enforcement Manager	Refuse Disposal Amenity Act 1978	To investigate abandoned vehicle cases including the power to remove a vehicle from a location in the open air and to instruct for a vehicle to be destroyed if all efforts to reunite with its owner have been exhausted	
PEE4	Parking & Enforcement Manager	Environmental Protection Act 1990 (Sections 87 & 88)	To issue Fixed Penalty Notices for offences such as littering and fly tipping	
PEE5	Parking & Enforcement Manager	Anti-Social Behaviour, Crime and Policing Act 2014 (Sections 59 & 66)	Miscellaneous powers to disperse groups, challenge and move on suspected perpetrators of ASB, alcohol or substance abuse.	
PEE6	Parking & Enforcement Manager	Anti-Social Behaviour Act 2003 (Section 43)	To take action against graffiti and flyposting	
PEE7	Parking & Enforcement Manager	Road Traffic (Vehicle Emissions) (Fixed Penalty)(England) Regulations 2002	To warn and if necessary issue a Fixed Penalty Notice to drivers who are idling their vehicle engine	
<i>Parking Team</i>				



PEE8	Parking Operations Supervisor	Traffic Management Act 2004	Issuing Penalty Charge Notices in Borough Council car parks	
PEE9	Parking Operations Supervisor	Epsom & Ewell Borough Council Off Street Parking Places Order March 2022 variation 1	To charge a lost token fee or make a discretionary decision about a parking charge within our car parks	
PEE10	Civil Enforcement Officer	Traffic Management Act 2004	Issuing Penalty Charge Notices in Borough Council car parks	
PEE11	Civil Enforcement Officer	Epsom & Ewell Borough Council Off Street Parking Places Order March 2022 variation 1	To charge a lost token fee or make a discretionary decision about a parking charge within our car parks	
<i>Environmental Team</i>				
PEE12	Enforcement Operations Supervisor	Traffic Management Act 2004	Issuing Penalty Charge Notices in Borough Council car parks	
PEE13	Enforcement Operations Supervisor	Epsom & Ewell Borough Council Off Street Parking Places Order March 2022 variation 1	To charge a lost token fee or make a discretionary decision about a parking charge within our car parks	
PEE14	Enforcement Operations Supervisor	Refuse Disposal Amenity Act 1978	To investigate abandoned vehicle cases including the power to remove a vehicle from a location in the open air and to instruct for a vehicle to be destroyed if all efforts to reunite with its owner have been exhausted	
PEE15	Enforcement Operations Supervisor	Environmental Protection Act 1990 (Sections 87 & 88)	To issue Fixed Penalty Notices for offences such as littering and fly tipping	
PEE16	Enforcement Operations Supervisor	Anti-Social Behaviour, Crime and Policing Act 2014 (Sections 59 & 66)	Miscellaneous powers to disperse groups, challenge and move on suspected perpetrators of ASB, alcohol or substance abuse.	
PEE17	Enforcement Operations Supervisor	Anti-Social Behaviour Act 2003 (Section 43)	To take action against graffiti and flyposting	
PEE18	Enforcement Operations Supervisor	Road Traffic (Vehicle Emissions) (Fixed	To warn and if necessary issue a Fixed Penalty Notice	

		Penalty)(England) Regulations 2002	to drivers who are idling their vehicle engine	
PEE19	Environmental Enforcement Officer	Traffic Management Act 2004	Issuing Penalty Charge Notices in Borough Council car parks	
PEE20	Environmental Enforcement Officer	Refuse Disposal Amenity Act 1978	To investigate abandoned vehicle cases	
PEE21	Environmental Enforcement Officer	Environmental Protection Act 1990 (Sections 87 & 88)	To issue Fixed Penalty Notices for offences such as littering and fly tipping	
PEE22	Environmental Enforcement Officer	Anti-Social Behaviour, Crime and Policing Act 2014 (Sections 59 & 66)	Miscellaneous powers to disperse groups, challenge and move on suspected perpetrators of ASB, alcohol or substance abuse.	
PEE23	Environmental Enforcement Officer	Anti-Social Behaviour Act 2003 (Section 43)	To take action against graffiti and flyposting	
PEE24	Environmental Enforcement Officer	Road Traffic (Vehicle Emissions) (Fixed Penalty)(England) Regulations 2002	To warn and if necessary issue a Fixed Penalty Notice to drivers who are idling their vehicle engine	
<i>Business Support Team</i>				
PEE25	Business Support Manager	Traffic Management Act 2004	To make decisions regarding the issuing of Penalty Charge Notices, cancellations and write offs. To instruct Enforcement Agents (bailiffs) to remove a vehicle, act upon a warrant or stand down	
PEE26	Business Support Manager	Epsom & Ewell Borough Council Off Street Parking Places Order March 2022 variation 1	To charge a lost token fee or make a discretionary decision about a parking charge within our car parks	
PEE27	Business Support Supervisor	Traffic Management Act 2004	To make decisions regarding the issuing of Penalty Charge Notices, cancellations and write offs. To instruct Enforcement Agents (bailiffs) to remove a vehicle, act upon a warrant or stand down	
PEE28	Business Support Supervisor	Epsom & Ewell Borough Council Off Street Parking	To charge a lost token fee or make a discretionary	

		Places Order March 2022 variation 1	decision about a parking charge within our car parks	
PEE29	Business Support Officer	Traffic Management Act 2004	To accept or reject a Penalty Charge Notice appeal or representation	
PEE30	Business Support Officer	Epsom & Ewell Borough Council Off Street Parking Places Order March 2022 variation 1	To charge a lost token fee or make a discretionary decision about a parking charge within our car parks	

### 5. Operational Services Scheme of Delegation

No	Title of Post Holder	Function Delegated	Date
OS1	Head of Operational Services, Street Care Manager & Street Care Assistant Manager	Agree rents with market traders within the fees and parameters as approved by committee and in accordance with Financial Regulations and Contract Standing Orders	
OS2	Head of Operational Services	Signing of market traders' annual contracts, in accordance with Financial Regulations and Contract Standing Orders	
OS3	Head of Operational Services	Negotiation and entering into annual home ground agreements for football, cricket and bowling in accordance with Financial Regulations and Contract Standing Orders with fees as set in fees and charges	
OS4	Head of Operational Services, Street Care Manager & Assistant Street Care Manager	Entering into Agreements for the use of Hook Road Area, Parks and Open Spaces in accordance with Financial Regulations and Contract Standing Orders	
OS5	Head of Operational Services, Street Care Manager & Assistant Street Care Manager	Negotiation and entering into Agreements for filming rights, with fees to be charged as agreed by Committee	
OS6	Head of Operational Services	Signing of allotment agreements	
OS7	Head of Operational Services, Community Services Manager, Theatre Manager	Negotiation of rentals and discounts to gain business opportunities within all council owned venues (e.g. Playhouse, Bourne Hall, etc..) in accordance with Financial Regulations and Contract Standing Orders	
OS8	Head of Operational Services & Transport	Negotiation of waste collection charges for large contracts, in accordance with	

	and Waste Services Manager	Financial Regulations and Contract Standing Orders	
OS9	Head of Operational Services	Signing and negotiation of service level agreements with Surrey County Council, Community Transport, Meals at Home, Home from Hospital, Community Alarm; in accordance with Financial Regulations and Contract Standing Orders	
OS10	Head of Operational Services	Signing and negotiation of rental agreements for the use of a room or area with the portfolio of venues or parks pavilions excluding leases, which are property services; in accordance with Financial Regulations and Contract Standing Orders	
OS11	Head of Operational Services	Determining and Issuing Refunds on services requests agreement; in accordance with Financial Regulations and Contract Standing Orders	
OS12	Head of Operational Services	Negotiating and entering into advertising agreements concerning all council owned venues, in accordance with Financial Regulations and Contract Standing Orders	
OS13	Head of Operational Services	Decisions to issue Non-cultivation orders on allotment sites	
OS14	Head of Operational Services	Determining and Issuing - Tables and Chairs Licences and Scaffolding & Hoarding Licences	
OS15	Head of Operational Services, Street Care Manager & Assistant Street Care Manager	Decisions regarding Unauthorised Encampments	

## 6. Housing Services Scheme of Delegation

6.1. For this scheme of delegation, the relevant legislation has been added for further clarity.

No	Title of Post Holder	Legislation	Function Delegated	Date
HS1	Head of Housing & Community	Protection from Eviction Act 1977 Criminal Law Act 1977 Housing Act 1985 Children Act 1989 Housing Act 1996 Human Rights Act 1998 Children Leaving Care Act 2000	To make all decisions, take all actions and exercise all powers in respect of the Council's housing and homelessness functions in accordance with any one or number of the legislation in List	

		<p>Housing Act 2002 Homelessness (Priority Need for Accommodation) (England) Order 2002 Housing Act 2004 Fraud Act 2006 Equality Act 2010 Localism Act 2011 Welfare Reform Act 2012 Suitability of Accommodation Order 2012 Care Act 2014 Homelessness Reduction Act 2017 The Homelessness (Review Procedure etc) Regulations 2018 Domestic Abuse Act 2021</p>	<p>1 and/or any adopted policy(ies) of the Council and/or any other subsequent, new or replacing legislation or adopted Council policy relating to the Council's housing and homelessness functions.</p>	
HS2	Strategic Housing Manager	<p>Protection from Eviction Act 1977 Criminal Law Act 1977 Housing Act 1985 Children Act 1989 Housing Act 1996 Human Rights Act 1998 Children Leaving Care Act 2000 Housing Act 2002 Homelessness (Priority Need for Accommodation) (England) Order 2002 Housing Act 2004 Fraud Act 2006 Equality Act 2010 Localism Act 2011 Welfare Reform Act 2012 Suitability of Accommodation Order 2012</p>	<p>To make all decisions, take all actions and exercise all powers in respect of the Council's housing and homelessness functions in accordance with any one or number of the legislation in List 1 and/or any adopted policy(ies) of the Council and/or any other subsequent, new or replacing legislation or adopted Council policy relating to the Council's housing and homelessness functions.</p>	

		Care Act 2014 Homelessness Reduction Act 2017 The Homelessness (Review Procedure etc) Regulations 2018 Domestic Abuse Act 2021		
HS3	Housing Options Manager	Protection from Eviction Act 1977 Criminal Law Act 1977 Housing Act 1985 Children Act 1989 Housing Act 1996 Human Rights Act 1998 Children Leaving Care Act 2000 Housing Act 2002 Homelessness (Priority Need for Accommodation) (England) Order 2002 Housing Act 2004 Fraud Act 2006 Equality Act 2010 Localism Act 2011 Welfare Reform Act 2012 Suitability of Accommodation Order 2012 Care Act 2014 Homelessness Reduction Act 2017 The Homelessness (Review Procedure etc) Regulations 2018 Domestic Abuse Act 2021	To make all decisions, take all actions and exercise all powers in respect of the Council's housing and homelessness functions in accordance with any one or number of the legislation in List 1 and/or any adopted policy(ies) of the Council and/or any other subsequent, new or replacing legislation or adopted Council policy relating to the Council's housing and homelessness functions.	
HS4	Housing Options Officer	Protection from Eviction Act 1977 Criminal Law Act 1977 Housing Act 1985 Children Act 1989 Housing Act 1996	To make all decisions, take all actions and exercise all powers in respect of the Council's housing and homelessness	

		<p>Human Rights Act 1998 Children Leaving Care Act 2000 Housing Act 2002 Homelessness (Priority Need for Accommodation) (England) Order 2002 Housing Act 2004 Fraud Act 2006 Equality Act 2010 Localism Act 2011 Welfare Reform Act 2012 Suitability of Accommodation Order 2012 Care Act 2014 Homelessness Reduction Act 2017 The Homelessness (Review Procedure etc) Regulations 2018 Domestic Abuse Act 2021</p>	<p>functions in accordance with any one or number of the legislation in List 1 and/or any adopted policy(ies) of the Council and/or any other subsequent, new or replacing legislation or adopted Council policy relating to the Council's housing and homelessness functions.</p>
HS5	Housing Support Assistant	<p>Protection from Eviction Act 1977 Criminal Law Act 1977 Housing Act 1985 Children Act 1989 Housing Act 1996 Human Rights Act 1998 Children Leaving Care Act 2000 Housing Act 2002 Homelessness (Priority Need for Accommodation) (England) Order 2002 Housing Act 2004 Fraud Act 2006 Equality Act 2010 Localism Act 2011 Welfare Reform Act 2012</p>	<p>To make all decisions, take all actions and exercise all powers in respect of the Council's housing and homelessness functions in accordance with any one or number of the legislation in List 1 and/or any adopted policy(ies) of the Council and/or any other subsequent, new or replacing legislation or adopted Council policy relating to the Council's housing and homelessness functions.</p>

		<p>Suitability of Accommodation Order 2012 Care Act 2014 Homelessness Reduction Act 2017 The Homelessness (Review Procedure etc) Regulations 2018 Domestic Abuse Act 2021</p>		
HS6	Housing Options Single Persons Officer	<p>Protection from Eviction Act 1977 Criminal Law Act 1977 Housing Act 1985 Children Act 1989 Housing Act 1996 Human Rights Act 1998 Children Leaving Care Act 2000 Housing Act 2002 Homelessness (Priority Need for Accommodation) (England) Order 2002 Housing Act 2004 Fraud Act 2006 Equality Act 2010 Localism Act 2011 Welfare Reform Act 2012 Suitability of Accommodation Order 2012 Care Act 2014 Homelessness Reduction Act 2017 The Homelessness (Review Procedure etc) Regulations 2018 Domestic Abuse Act 2021</p>	<p>To make all decisions, take all actions and exercise all powers in respect of the Council's housing and homelessness functions in accordance with any one or number of the legislation in List 1 and/or any adopted policy(ies) of the Council and/or any other subsequent, new or replacing legislation or adopted Council policy relating to the Council's housing and homelessness functions.</p>	
HS7	Housing Solutions Manager	<p>Protection from Eviction Act 1977 Criminal Law Act 1977</p>	<p>To make all decisions, take all actions and exercise all powers in</p>	



		<p>Housing Act 1985 Children Act 1989 Housing Act 1996 Human Rights Act 1998 Children Leaving Care Act 2000 Housing Act 2002 Homelessness (Priority Need for Accommodation) (England) Order 2002 Housing Act 2004 Fraud Act 2006 Equality Act 2010 Localism Act 2011 Welfare Reform Act 2012 Suitability of Accommodation Order 2012 Care Act 2014 Homelessness Reduction Act 2017 The Homelessness (Review Procedure etc) Regulations 2018 Domestic Abuse Act 2021</p>	<p>respect of the Council's housing and homelessness functions in accordance with any one or number of the legislation in List 1 and/or any adopted policy(ies) of the Council and/or any other subsequent, new or replacing legislation or adopted Council policy relating to the Council's housing and homelessness functions.</p>	
HS8	Housing Needs Move On Officer	<p>Protection from Eviction Act 1977 Criminal Law Act 1977 Housing Act 1985 Children Act 1989 Housing Act 1996 Human Rights Act 1998 Children Leaving Care Act 2000 Housing Act 2002 Homelessness (Priority Need for Accommodation) (England) Order 2002 Housing Act 2004 Fraud Act 2006 Equality Act 2010</p>	<p>To make all decisions, take all actions and exercise all powers in respect of the Council's housing and homelessness functions in accordance with any one or number of the legislation in List 1 and/or any adopted policy(ies) of the Council and/or any other subsequent, new or replacing legislation or adopted Council policy relating to the Council's housing and</p>	

		<p>Localism Act 2011 Welfare Reform Act 2012 Suitability of Accommodation Order 2012 Care Act 2014 Homelessness Reduction Act 2017 The Homelessness (Review Procedure etc) Regulations 2018 Domestic Abuse Act 2021</p>	<p>homelessness functions.</p>	
HS9	Rent Deposit Officer	<p>Protection from Eviction Act 1977 Criminal Law Act 1977 Housing Act 1985 Children Act 1989 Housing Act 1996 Human Rights Act 1998 Children Leaving Care Act 2000 Housing Act 2002 Homelessness (Priority Need for Accommodation) (England) Order 2002 Housing Act 2004 Fraud Act 2006 Equality Act 2010 Localism Act 2011 Welfare Reform Act 2012 Suitability of Accommodation Order 2012 Care Act 2014 Homelessness Reduction Act 2017 The Homelessness (Review Procedure etc) Regulations 2018 Domestic Abuse Act 2021</p>	<p>To make all decisions, take all actions and exercise all powers in respect of the Council's housing and homelessness functions in accordance with any one or number of the legislation in List 1 and/or any adopted policy(ies) of the Council and/or any other subsequent, new or replacing legislation or adopted Council policy relating to the Council's housing and homelessness functions.</p>	

HS10	Temporary accommodation Assistant	<p>Protection from Eviction Act 1977 Criminal Law Act 1977 Housing Act 1985 Children Act 1989 Housing Act 1996 Human Rights Act 1998 Children Leaving Care Act 2000 Housing Act 2002 Homelessness (Priority Need for Accommodation) (England) Order 2002 Housing Act 2004 Fraud Act 2006 Equality Act 2010 Localism Act 2011 Welfare Reform Act 2012 Suitability of Accommodation Order 2012 Care Act 2014 Homelessness Reduction Act 2017 The Homelessness (Review Procedure etc) Regulations 2018 Domestic Abuse Act 2021</p>	<p>To make all decisions, take all actions and exercise all powers in respect of the Council's housing and homelessness functions in accordance with any one or number of the legislation in List 1 and/or any adopted policy(ies) of the Council and/or any other subsequent, new or replacing legislation or adopted Council policy relating to the Council's housing and homelessness functions.</p>	
HS11	Private Sector Leasing and Temporary accommodation Officer	<p>Protection from Eviction Act 1977 Criminal Law Act 1977 Housing Act 1985 Children Act 1989 HS 12Housing Act 1996 Human Rights Act 1998 Children Leaving Care Act 2000 Housing Act 2002 Homelessness (Priority Need for Accommodation)</p>	<p>To make all decisions, take all actions and exercise all powers in respect of the Council's housing and homelessness functions in accordance with any one or number of the legislation in List 1 and/or any adopted policy(ies) of the Council and/or any other subsequent, new or replacing legislation</p>	

		(England) Order 2002 Housing Act 2004 Fraud Act 2006 Equality Act 2010 Localism Act 2011 Welfare Reform Act 2012 Suitability of Accommodation Order 2012 Care Act 2014 Homelessness Reduction Act 2017 The Homelessness (Review Procedure etc) Regulations 2018 Domestic Abuse Act 2021	or adopted Council policy relating to the Council's housing and homelessness functions.	
HS12	Housing Support Assistant	Protection from Eviction Act 1977 Criminal Law Act 1977 Housing Act 1985 Children Act 1989 Housing Act 1996 Human Rights Act 1998 Children Leaving Care Act 2000 Housing Act 2002 Homelessness (Priority Need for Accommodation) (England) Order 2002 Housing Act 2004 Fraud Act 2006 Equality Act 2010 Localism Act 2011 Welfare Reform Act 2012 Suitability of Accommodation Order 2012 Care Act 2014 Homelessness Reduction Act 2017 The Homelessness	To make all decisions, take all actions and exercise all powers in respect of the Council's housing and homelessness functions in accordance with any one or number of the legislation in List 1 and/or any adopted policy(ies) of the Council and/or any other subsequent, new or replacing legislation or adopted Council policy relating to the Council's housing and homelessness functions.	

		(Review Procedure etc) Regulations 2018 Domestic Abuse Act 2021		
HS13	Housing Needs and Development Officer	Protection from Eviction Act 1977 Criminal Law Act 1977 Housing Act 1985 Children Act 1989 Housing Act 1996 Human Rights Act 1998 Children Leaving Care Act 2000 Housing Act 2002 Homelessness (Priority Need for Accommodation) (England) Order 2002 Housing Act 2004 Fraud Act 2006 Equality Act 2010 Localism Act 2011 Welfare Reform Act 2012 Suitability of Accommodation Order 2012 Care Act 2014 Homelessness Reduction Act 2017 The Homelessness (Review Procedure etc) Regulations 2018 Domestic Abuse Act 2021	To make all decisions, take all actions and exercise all powers in respect of the Council's housing and homelessness functions in accordance with any one or number of the legislation in List 1 and/or any adopted policy(ies) of the Council and/or any other subsequent, new or replacing legislation or adopted Council policy relating to the Council's housing and homelessness functions.	

## 7. Public Protection Scheme of Delegation

7.1. For this scheme of delegation, the relevant legislation has been added for further clarity.

No	Title of Post Holder	Legislation	Function Delegated	Date
PPS1	Public Protection Manager, Principal Environmental Health Officer, Environmental	Housing Act 2004 s.11	Service of Improvement notice (category 1 hazards)	

	Health Officer, Environmental Health Assistant			
PPS2	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Assistant	Housing Act 2004 s.12	Service of Improvement notice (category 2 hazards)	
PPS3	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Assistant	Housing Act 2004 s.20	Service of prohibition orders (category 1 hazards)	
PPS4	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Assistant	Housing Act 2004 s.21	Service of prohibition orders (category 2 hazards)	
PPS5	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Assistant	Housing Act 2004 s.28	Service of Hazard Awareness Notice (category 1 hazards)	
PPS6	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Assistant	Housing Act 2004 s.29	Service of Hazard Awareness notice (category 2 hazards)	
PPS7	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Assistant	Housing Act 2004 s.31	Carrying out works in default	

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PPS8	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Assistant	Housing Act 2004 s.40	Emergency Remedial Action	
PPS9	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Assistant	Housing Act 2004 s.62	Grant or refuse HMO licence	
PPS10	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Assistant	Housing Act 2004 s.64	Grant HMO licence temporary exemption	
PPS11	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Assistant	Housing Act 2004 s.70	Revoke HMO licence	
PPS12	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Assistant	Housing Act 2004 s.239	Housing Act Powers of Entry	
PPS13	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Assistant	Housing Act 2004 s.235	Powers to require documentation	
PPS14	Public Protection Manager, Principal Environmental Health	Food Safety and Hygiene (England)	Food Hygiene Improvement Notice	

	Officer, Environmental Health Officer	Regulations 2013 regulation 6		
PPS15	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Food Safety and Hygiene (England) Regulations 2013 regulation 8	Hygiene Emergency Prohibition Notices	
PPS16	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Food Safety and Hygiene (England) Regulations 2013 regulation 9	Remedial Action Notices	
PPS17	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Food Safety and Hygiene (England) Regulations 2013 regulation 10	Detention notices	
PPS18	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Food Safety and Hygiene (England) Regulations 2013 regulation 14	Procurement of samples	
PPS19	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Assistant	Food Safety and Hygiene (England) Regulations 2013 regulation 16	Powers of entry	
PPS20	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Food Safety and Hygiene (England) Regulations 2013 regulation 29	Certification of food	
PPS21	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Food Safety Act 1990	General Provisions (s.5(6))	



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PPS22	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer, Environmental Health Assistant	Environmental Protection Act 1990 s.33ZA	Flytip Fixed Penalty	
PPS23	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer, Environmental Health Assistant	Environmental Protection Act 1990 s.34ZA	Failure of waste duty of care fixed penalty	
PPS24	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer, Environmental Health Assistant	Environmental Protection Act 1990 s.34A	Failure to furnish documents fixed penalty	
PPS25	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer, Environmental Health Assistant	Environmental Protection Act 1990 s.34B	Power to search and seize vehicles	
PPS26	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Contaminated Land Officer	Environmental Protection Act 1990 s.78B	Identification of contaminated land	
PPS27	Public Protection Manager, Principal	Environmental Protection Act	Service of contaminated land	

	Environmental Health Officer, Environmental Health Officer, Contaminated Land Officer	1990 s.78E	remediation notices	
PPS28	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer, Environmental Health Assistant, Community Safety and Enforcement Officer	Control of Pollution (Amendment) Act 1989 s.5	Power to require authority to transport waste	
PPS29	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer, Environmental Health Assistant, Community Safety and Enforcement Officer	Control of Pollution (Amendment) Act 1989 s.5B	Fixed penalty notice - failure to provide authority	
PPS30	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer, Environmental Health Assistant	Environmental Protection Act 1990 s.80	Service of abatement notice	
PPS31	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer, Environmental Health Assistant	The Environmental Permitting (England and Wales) Regulations 2016 reg 13	Issue of permit	

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PPS32	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer, Contaminated Land Officer, Environmental Health Assistant	Environment Act 1995 s.108	General powers of enforcing authorities, entry, demand for information etc	
PPS33	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer, Environmental Health Assistant	Prevention of Damage by Pests Act 1949 s.4	Power to require treatment of land to destroy rats and mice	
PPS34	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Health Protection (Local Authority Powers) Regulations 2010 reg 8	Notice requesting cooperation	
PPS35	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Health Protection (Local Authority Powers) Regulations 2010 reg 2	Notice requiring to keep a child away from school	
PPS36	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Health Protection (Local Authority Powers) Regulations 2010 reg 11	Relocation of dead bodies	
PPS37	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Health Protection (Local Authority Powers) Regulations 2010 reg 9	Restriction of contact with dead bodies	
PPS38	Public Protection Manager, Principal	Health Protection	Restriction of access to dead bodies	

	Environmental Health Officer, Environmental Health Officer	(Local Authority Powers) Regulations 2010 reg 10		
PPS39	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Health and Safety at Work Etc Act 1974 s.19	Be appointed as Inspectors	
PPS40	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Health and Safety at Work Etc Act 1974 s.26	That the Council indemnify its appointed inspectors	
PPS41	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Health and Safety at Work Etc Act 1974	Be delegated the power as set out in: section 20(2) (a) to (m) inclusive section 21 section 22 section 25 section 39 (power to prosecute before magistrates in England & Wales)	
PPS42	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Health and Safety at Work Etc Act 1974 s.53(1)	Be delegated any powers derived from health and safety regulations and/or powers under existing relevant statutory provisions (defined in Section 53(1) of HSWA), and regulations, orders or other legislation made under them.	
PPS43	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer, Community Safety and	Anti-social Behaviour, Crime and Policing Act 2014 s.53	Power to issue Community Protection Notice / Fixed Penalty Notice	

	Enforcement Officer			
PPS44	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer	Dangerous Dogs Act 1991 s.5	Seizure of dangerous dogs	
PPS45	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer, Contaminated Land Officer, Environmental Health Assistant, Licensing Officer, Community Safety and Enforcement Officer	Local Government (Miscellaneous Provisions) Act 1976 s.16	Power to obtain particulars of persons interested in land	
PPS46	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer	Public Health Act 1936 s.83	Cleansing of filthy or verminous premises	
PPS47	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer	Public Health Act 1936 s.79	Power to require removal of noxious matter by occupier of premises in urban district	
PPS48	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer, Environmental Health Enforcement Officer	Public Health Act 1961 s.17	Power to require unblocking and repair of drains	
PPS49	Public Protection Manager, Principal Environmental Health	The Energy Efficiency (Private Rented	Require thermal improvements to dwellings	

	Officer, Environmental Health Officer	Property) (England and Wales) Regulations 2015 regulation 35		
PPS50	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 reg 4	Service of remedial notice	
PPS51	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 reg 6	Power to require remedial action	
PPS52	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 reg 5	Service of remedial notice	
PPS53	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 reg 6	Power to require remedial action	
PPS54	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Animal Welfare Act 2006 s.61	Appointment of inspector	
PPS55	Public Protection Manager, Principal Environmental Health Officer, Environmental Health Officer	Local Government (Miscellaneous Provisions) Act 1982 s.17	Power to enter premises (acupuncture etc.)	
PPS56	Public Protection	Town Police	Issue Hackney	

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	Manager, Principal Environmental Health Officer, Environmental Health Officer	Clauses Act 1837 s.37	Carriage Licence	
PPS57	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Licensing Act 2003 s 120	Grant of Application for personal licence If no objection made	
PPS58	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Licensing Act 2003 s132A	Notice inviting representation following personal licence holder being convicted of a relevant offence	
PPS59	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Licensing Act 2003 Act s 178	Notice to freeholder etc. to be notified of licensing matters	
PPS60	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Licensing Act 2003 s 186	Institution of proceedings for offences	
PPS61	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Licensing Act 2003 s 23	Grant of Application for premises licence If no relevant representation made	
PPS62	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Licensing Act 2003 72	Grant of Application for club premises certificate If no relevant representation	
PPS63	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Licensing Act 2003 s 35	Grant of Application to vary premises licence If no relevant representation received	
PPS64	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Licensing Act 2003 s 85	Grant of Application to vary club premises certificate If no relevant representation received	
PPS65	Public Protection	Licensing Act	Determination of	

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	Manager, Principal Licensing Officer, Licensing Officer	2003 s 86A	Minor Variation to club premises certificate	
PPS66	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Licensing Act 2003 s 39	Grant of Application to vary designated premises supervisor if no objection received	
PPS67	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Licensing Act 2003 s 41	Request to be removed as designated premises supervisor	
PPS68	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Licensing Act 2003 s 41B	Determination of Minor Variation to premises licence	
PPS69	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Licensing Act 2003 s 44	Application for transfer of premises licence if no objection received	
PPS70	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Licensing Act 2003 s 47	Applications for interim authorities if no objection	
PPS71	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Licensing Act 2003 s 18, 35	Decision on whether a complaint is irrelevant frivolous vexatious etc	
PPS72	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Licensing Act 2003 s 102	Acknowledgement of temporary event notice	
PPS73	Public Protection Manager, Principal Licensing Officer,	Licensing Act 2003 s104A	Issue Counter notice following objection to late temporary event	



	Licensing Officer, Public Protection Technical Officer		notice	
PPS74	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Licensing Act 2003 s 105	Issue Counter notice following objection to temporary event notice	
PPS75	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Licensing Act 2003 s 107	issue counter notice to temporary event notice where permitted limits exceeded	
PPS76	Public Protection Manager, Principal Environmental Health Officer, Principal Licensing Officer, Environmental Health Officer, Environmental Health Enforcement Officer, Environmental Health Assistant, Licensing Officer	Licensing Act 2003 s 108	Right of entry where temporary event notice given	
PPS77	Public Protection Manager, Principal Environmental Health Officer, Principal Licensing Officer, Environmental Health Officer, Environmental Health Enforcement Officer, Environmental Health Assistant, Licensing Officer	Licensing Act 2003 s 179	Rights of entry to investigate licensable activities	
PPS78	Public Protection Manager, Principal Environmental Health Officer, Principal Licensing Officer, Environmental Health Officer, Environmental Health Enforcement	Licensing Act 2003 s 180	Right of entry to investigate offences	

	Officer, Environmental Health Assistant, Licensing Officer			
PPS79	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Town Police Clauses Act 1837 s.37	Grant Hackney Carriage Licence	
PPS80	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Local Government (Miscellaneous Provisions) Act 1976 s 48	Grant of Private Hire Vehicle Licence	
PPS81	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Local Government (Miscellaneous Provisions) Act 1976 s 51	Grant of Private Hire Vehicle Drivers licence	
PPS82	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Local Government (Miscellaneous Provisions) Act 1976 s57	Grant of private hire operators licence	
PPS83	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Local Government (Miscellaneous Provisions) Act 1976 s 56	Power to require applicants to submit information.	
PPS84	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Local Government (Miscellaneous Provisions) Act 1976 s 58	Notice requiring return of identification plate or disc on revocation or expiry of licence etc.	
PPS85	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Local Government (Miscellaneous Provisions) Act 1976 s 60	Suspension and revocation of vehicle licences.	

PPS86	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Local Government (Miscellaneous Provisions) Act 1976 s 61	Suspension and revocation of drivers' licences.	
PPS87	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Local Government (Miscellaneous Provisions) Act 1976 s 62	Suspension and revocation of operators' licences.	
PPS88	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Local Government (Miscellaneous Provisions) Act 1976 s 65	Fixing of fares for hackney carriages.	
PPS89	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Local Government (Miscellaneous Provisions) Act 1976 s 68	Immediate Suspension of vehicle licence	
PPS90	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Local Government (Miscellaneous Provisions) Act 1976 s 75	Notice exempting holder from displaying vehicle plate and driver ID badge	
PPS91	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Hackney Carriage and Private Hire Licensing Policy as adopted December 2022	Attach Penalty Points to Drivers, Operators and Vehicle Licences	
PPS92	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Gambling Act 2005 s 163	Determination of premises licence application	
PPS93	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Gambling Act 2005 s 187	Determination of variation premises licence	
PPS94	Public Protection	Gambling Act	Grant following	

	Manager, Principal Licensing Officer, Licensing Officer	2005 s 188	transfer of premises licence	
PPS95	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Gambling Act 2005 s 220	Acknowledgment of temporary use notice	
PPS96	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Gambling Act 2005 Schedule 10	Issue of Family Entertainment Centre Gaming Machine Permits	
PPS97	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Gambling Act 2005 Schedule 11	Registration of small society lottery	
PPS98	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Gambling Act 2005 Schedule 12	Issue of Club Gaming Permits and Club Machine Permits	
PPS99	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Gambling Act 2005 Schedule 13	issue of Licensed Premises Gaming Machine Permits	
PPS100	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Gambling Act 2005 Schedule 14	Licensed Prize Gaming Permits	
PPS101	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Gambling Act 2005 s 317	Powers to inspect premises etc.	
PPS102	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Gambling Act 2005 s 304	Authorised person	
PPS103	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Local Government (Miscellaneous Provisions) Act 1982 s 14	Registration for Acupuncture	
PPS104	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Local Government (Miscellaneous Provisions) Act 1982 s 15	Registration of Tattooing, semi-permanent skin-colouring, cosmetic piercing and	

			electrolysis.	
PPS105	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Local Government (Miscellaneous Provisions) Act 1982 s.17	Power to enter premises (acupuncture etc.)	
PPS106	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 paras 8 to 11	Grant, renewal, variation and transfer of licences for sex establishments were no objection received	
PPS107	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 para 24	Powers of local authority officers	
PPS108	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Local Government (Miscellaneous Provisions) Act 1982 Schedule 4 paras 3 and 7	determination of applications street trading consents and licences	
PPS109	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Animal Welfare Act 2006 s 51	Appointment of inspector and vet to exercise enforcement powers	
PPS110	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 regulation 4(2)(a)	Appointment of inspector to carry out inspections of premises upon application or renewal of a licence	
PPS111	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations	Appointment of vet in relation to breeding of dogs licence	

		2018 regulation 4(4)		
PPS112	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 regulation 4(5)	Appointment of vet in relation to hiring out of horse licence	
PPS113	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 regulation 15	Determination of grant or renewal of a licence	
PPS114	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 regulation 4(2)(a)	Powers with respect to suspension, variation without consent or revocation of a licence	
PPS115	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Zoo Licensing Act 1982 s 4	Determination of grant or refusal of licence	
PPS116	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Zoo Licensing Act 1982 s 17	Power of Entry	
PPS117	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Zoo Licensing Act 1982 s 16G	Power to revoke licence	
PPS118	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Scrap Metal Dealers Act 2013 s 3	Determination of application	

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PPS119	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Scrap Metal Dealers Act 2013 s 4	Power to revoke licence or imposition of conditions	
PPS120	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Scrap Metal Dealers Act 2013 s 16	Right to enter and inspect	
PPS121	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Police Factories etc. (Miscellaneous Provisions) Act 1916 s 5	Grant of permit for charity street collection	
PPS122	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	House to House Collections Act 1939 2	Determination of licence	
PPS123	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Charities Act 2006 s59	Grant of permit for charity street collection	
PPS124	Public Protection Manager, Principal Licensing Officer, Licensing Officer, Public Protection Technical Officer	Charities Act 2006 s60	Refusal of permits for charity street collection	
PPS125	Public Protection Manager, Principal Licensing Officer, Licensing Officer	Business and Planning act 2020 s 3	Determination of Pavement Licence	

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## Appendix 3 - Terms of Reference for the Full Council and other Council Committees, Sub-Committees, Advisory Panels and Joint Arrangements

### 1. Introduction

- 1.1. This appendix sets out the Terms of Reference for the Full Council and all other Council Committees, Sub-Committees, Advisory Panels, and Joint Arrangements.
- 1.2. Where a decision or action needs to be taken, but it is not clearly in the purview of any of the Terms of Reference set out below, it must be brought to the attention of the Chair of the Strategy and Resources Committee. They shall, in consultation with the Monitoring Officer, determine who shall make the decision, and/or if any amendments to the Terms of Reference are needed to rectify a gap.
- 1.3. Where a decision or action needs to be taken, but it potentially falls within the purview of two or more Terms of Reference, the conflict of responsibility must be brought to the attention of the Chair of the Strategy and Resources Committee. They shall, in consultation with the Monitoring Officer, resolve any such conflict and determine who shall make the decision, and/or if any amendments to the Terms of Reference are needed to rectify an overlap.

**4.2. Full Council and Committees**

Full Council	All councillors
<p><b>Terms of reference:</b></p> <p>The Full Council will exercise the following functions:</p> <ol style="list-style-type: none"> <li>1. Adopting and changing the Constitution.</li> <li>2. Approving and adopting the policy framework, the budget and the annual council tax requirements, and any application to the Secretary of State in respect of any housing land transfer.</li> <li>3. Making decisions about any matter relating to the discharge of a function covered by the policy framework or budget where a decision would be contrary to the policy framework or contrary or not wholly in accordance with the budget.</li> <li>4. Agreeing and / or amending the terms of reference for committees, deciding on their composition and making appointments to them (except for authorised substitutions in accordance with the relevant rules of procedure in Appendix 4 and Appendix 5).</li> <li>5. Appointing annually the Mayor and Deputy Mayor.</li> <li>6. Appointing representatives to outside bodies unless the <u>council has otherwise delegated the making of a particular</u> appointment <del>has been delegated by the council.</del></li> <li>7. Creating, amending or dissolving committees (including joint committees) of the council and determining the terms of reference of such committees and appointing members to serve on its committees.</li> <li>8. Delegating functions to other local authorities or their executives and deciding whether or not to accept such a delegation from another local authority.</li> </ol>	

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| <p>9. Adopting a Members' Allowance Scheme.</p> <p>10. Changing the name of the Borough.</p> <p>11. Conferring the titles of Honorary Alderman or Honorary Freeman.</p> <p>12. Confirming the appointment, redundancy or early retirement of the Chief Executive, <del>Directors</del>, and statutory officers.</p> <p>13. Determining any delegation to officers which does not fall with the remit of any committee, <u>or Appendix 2.</u></p> <p>14. Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills.</p> <p>15. Determining the level of disciplinary action or dismissal of specified statutory senior officers.</p> <p><u>16. Appointing the Independent Person or a Panel of such from which an Independent Person may be called upon when required.</u></p> <p><u>16-17. Appointing members of the Independent Remuneration Panel.</u></p> <p><u>17-18. Adopting the Code of Conduct for Members (Appendix 1) and the arrangements for dealing with complaints.</u></p> <p><u>18-19. Considering those matters referred to it from time-to-time by Audit and Scrutiny Committee and by other council committees.</u></p> <p><u>19-20. Considering petitions which are referred to Full Council under the Petition Scheme.</u></p> <p><u>20-21. All other matters which by law must be reserved to the Full Council.</u></p> |  |
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<b>Standards and Constitution Committee</b>	6 members
<p>The council has chosen to appoint a Standards &amp; Constitution Committee in accordance with the Localism Act 2011. The Committee is responsible for considering complaints about the conduct of members and any co-opted members, which are not determined by the Monitoring Officer. The Committee has set up a Standard Hearing Sub-Committee for the determination of such matters.</p> <p>The Standards &amp; Constitution Committee will be politically balanced. Full Council will appoint an Independent Person, or a panel of such, to advise it and any councillor when matters of conduct arise.</p> <p>All hearings and assessments of complaints against councillors and co-opted members, will be conducted in accordance with current legal requirements and (subject to those) relevant provisions set out in in this Constitution.</p> <p><b>Terms of reference:</b></p> <ol style="list-style-type: none"> <li>1. Promoting and maintaining high standards of conduct by councillors in accordance with the duty contained in Section 27 of the Localism Act 2011.</li> <li>2. Assisting councillors to observe the councillors Code of Conduct.</li> <li>3. Advising the Full Council on the adoption or revision of the Code of Conduct.</li> <li>4. Granting dispensations under Section 33 of the Localism Act 2011 to councillors from the requirements relating to interests set out in the Code of Conduct.</li> <li>5. Making arrangements for investigating and determining complaints regarding alleged breaches of the Code of Conduct, including an annual report.</li> <li>6. Discharging, through a Hearings Panel, decisions made following consideration of reports by an Investigating Officer in connection with 5. above.</li> <li>7. Receiving requests for, and / or proposing, review of the Constitution or parts thereof as necessary; and then recommending changes to Full Council.</li> <li>8. Arrangements for dealing with standards allegations under the Localism Act 2011.</li> <li>9. Work jointly on the corporate governance framework with the Chairs of Audit and Scrutiny and Strategy and Resources committees, incorporating strategic planning, corporate risk and performance management.</li> </ol> <p><b>To make recommendations regarding:</b></p>	

1. Significant revisions to the Constitution (subject to other policy committees being able to make recommendations direct to council about proposed changes to their terms of reference).
2. The adoption and revision of the Councillors' Code of Conduct.
3. Changes to the committee's terms of reference.
4. Other matters under the committee's jurisdiction which, by virtue of statutory provision, must be determined by Full Council.

**To resolve:**

- a. The granting of dispensations in the following circumstances (under Section 33 of the Localism Act 2011) to councillors from the requirements relating to interests set out in the councillors' Code of Conduct:
  - i. That without the dispensation, the representation of Political Groups transacting the business would be so upset as to alter the outcome of any vote on the matter.
  - ii. That dispensation is in the interests of persons living in the authority's area.
  - iii. It is otherwise considered appropriate to grant a dispensation.

**Delegation to Hearing Panels:**

1. Determination of complaints referred by an Investigating Officer regarding alleged breaches of the councillors' Code of Conduct shall be delegated to Hearing Panels.
2. Such panels shall comprise three Borough councillors serving on the Standards and Constitution Committee.

**Delegation to officers:**

1. All delegations to Officers must be made in accordance with Appendix 2.
- ~~1.2.~~ To the Monitoring Officer (see Annex 3.3), in consultation with the Chair of the Standards and Constitution Committee, to grant dispensations in situations where so many councillors of the decision-making body have Disclosable Pecuniary Interests in a matter that it would otherwise impede the transaction of the business.
- ~~2.3.~~ To the Monitoring Officer (see Annex 3.3) ~~and / or Deputy Monitoring Officer~~ respectively the power to determine matters in respect of the councillors' Code of Conduct and arrangements for dealing with allegations of breach (following consultation with the Independent Person where required) except for those which are identified above as reserved for determination by the Full Council, other committees or Hearings Panels.

<b>Audit and Scrutiny Committee</b>	8 members
<p><b>Terms of reference:</b></p> <ol style="list-style-type: none"> <li>1. To be responsible for the scrutiny and review of the decisions and performance of the council.</li> <li>2. To carry out the functions falling within the committee’s area of responsibility as set out below, working within the budget and policy framework approved by the Full Council, except where these functions remain the reserve of the Full Council or have been delegated to another committee. <u>Where a new or changed policy will have a budget impact outside the budget approved by the Full Council, this must be referred to the Strategy and Resources Committee. <del>within the council’s scheme of delegation.</del></u></li> <li>3. To seek assurance of the existence and application of key policies and strategies as well as undertaking scrutiny of performance monitoring to evaluate whether expected outcomes are being achieved in accordance with the council’s corporate plan.</li> <li>4. To establish sub-committees to progress work of the committee.</li> <li>5. To decide on matters falling within its responsibility or delegate decision making to Directors of the council, <u>in accordance with Appendix 2</u>. However, this does not prevent the committee from choosing to exercise the function itself.</li> </ol> <p><b>Areas of responsibility:</b></p> <ol style="list-style-type: none"> <li>a. Overall responsibility for audit and governance frameworks (including functions of an audit committee).</li> <li>b. Oversee compliance with the council’s duties concerning Best Value.</li> <li>c. Monitor implementation of agreed recommendations and actions from both the Internal and External audit reports.</li> <li>d. Monitor progress on the council’s annual plan.</li> <li>e. Review and approve the Annual Governance Statement.</li> <li>f. Exercise scrutiny over the council’s budget; the management of its budget, capital programme, treasury management, reserves, revenue borrowing and assets and the audit arrangements thereof, plus associated strategy and policies.</li> <li>g. Exercise scrutiny of the quarterly budget monitoring reports.</li> <li>h. Exercise scrutiny and approval (where applicable) of the annual Statement of Accounts, financial outturn, and external audit reports.</li> <li>i. Receive an annual report setting out the activities relating to compliance with key council policies including (but not limited to) anti-bribery, anti-corruption, whistleblowing policies, modern slavery and equality, diversity and inclusion.</li> </ol>	

- j. Receive and review the Local Government and Social Care Ombudsman's annual report.
- k. Receive and review, on a quarterly basis, the latest version of the key performance indicators and targets from each committee which seek to ensure the provision of cost effective, quality services to the community (as part of the council's own performance management regime).
- l. Review and/or scrutinise decisions made, or actions taken, in connection with the discharge of any of the council's functions and make reports and/or recommendations to Full Council where necessary.
- m. Undertake, in specific circumstances, pre-scrutiny reviews relating to council services and projects.
- n. Exercise the right to call-in, for reconsideration, decisions made but not yet implemented by any policy committee.
- o. Work jointly on the corporate governance framework with the Chairs of Standards and Constitution and Strategy and Resources committees, incorporating strategic planning, corporate risk and performance management.
- p. Carry out the council's responsibilities under Section 19 of the Police and Justice Act 2006, to scrutinise the work of the Community Safety Partnership (CSP) annually.

**In carrying out its responsibilities the committee will:**

1. Work in partnership with other policy committees, sub-committees and panels.
2. Scrutinise the application of the Risk Management Strategy and oversee the corporate risk register, key performance indicators and any other actions relevant to the committee under scrutiny. The committee shall raise risk issues and concerns with relevant policy committee chairs.
3. Have oversight of any matters of interest or concern relevant to this committee's remit.

**To make recommendations regarding:**

- a. Matters with significant budgetary and/or policy implications arising from:
  - Internal or External audit reports.
  - The reviewing and scrutinising of the performance of the council in relation to its policy objectives, performance targets, committee work plans and any Government sponsored assessment regime.
  - Presentations by representatives of outside organisations about services which have a significant impact upon local residents.

- b. Consideration of any Councillor Call for Action.
- c. Changes to this committee's terms of reference.
- d. Other matters under the committee's jurisdiction which, by virtue of statutory provision, must be determined by Full Council.

**To resolve:**

- a. Matters in connection with above with no significant budgetary and/or policy implication.
- b. Decisions to refer matters to policy committees.



<b>Strategy &amp; Resources Committee</b>	8 members
<p><b>Terms of reference:</b></p> <ol style="list-style-type: none"> <li>1. To make recommendations to the Full Council on budget and policy matters.</li> <li>2. To provide strategic direction to the operation of the council, determining policies in the areas set out below and any cross-cutting policies that impact on other committee areas.</li> <li>3. To make decisions regarding land and property. <u>This includes including acquisition, disposal and appropriation, <b>provided they are</b> not within the purview of any other committee.</u></li> <li>4. To own, review and approve the council’s Risk Management Strategy.</li> <li>5. To be responsible for all policy matters not otherwise allocated to any other committee and to determine any disputes or differences between committees.</li> <li>6. The annual budget preparation process and consideration of overall committee budgets, including the setting of Council Tax, prudential indicators.</li> <li>7. Civic and Ceremonial matters (including the appointment of representatives on Outside Bodies with the exception of the list considered at the Annual Meeting of the Full Council; Members' Allowances and Regalia).</li> <li><del>8.</del> <u>The appointment of, and disciplinary action against, Chief and Statutory Officers.</u></li> <li><del>8-9.</del> <u>To receive reports from any committee where they wish to resolve or recommend proposals which commit future budgets to a level of expenditure greater than that provided for in the current year, with the financial implications agreed in advance with the Chief Finance Officer (in accordance with the Financial Regulations - see the Council Operating Framework, Annex 5.1, para 6.5 and 6.6 respectively).</u></li> </ol> <p><b>Areas of responsibility:</b></p> <ol style="list-style-type: none"> <li>a. Lead on the corporate governance framework (jointly with the Chairs of Standards and Constitution and Audit &amp; Scrutiny committees) incorporating strategic planning, corporate risk and performance management.</li> <li>b. Council compliance with Financial Regulations (see the <a href="#">Council Operating Framework</a>, Annex 5.1).</li> <li>c. All matters relating to the oversight of the approved council budget and Policy Framework (including the setting of staff pay).</li> <li>d. Medium Term Financial Strategy to include, though not exclusively, Capital Investment Strategy, Council Tax Support Scheme, Business Rates and use of council reserves.</li> <li>e. Implementation and monitoring of treasury management policies.</li> </ol>	

- f. Asset Management Strategy including the purchase, management and disposal of real property owned or held by the council (note other committees may have responsibilities for service provision, venues or activities).

- g. Community right to Challenge and Community Right to bid for Assets of Community Value.
- h. Exercise the council's functions as Shareholder and consider recommendations from the Shareholders Sub Committee, making decisions as required.
- i. Exercise of the council's powers as Trustee of any land or money held by the council in trust.
- j. Administration of council tax and housing benefits.
- k. Collaboration and partnerships related to the remit of this committee.
- l. Electoral matters including polling stations, ward boundaries, ballots and referendums.
- m. Procurement Strategy, and those matters that have budget or procurement implications for more than one committee.
- n. Building Control contract.
- o. Facilities management and cleaning contract.
- p. Development of the local economy and regeneration.
- q. Emergency planning, resilience and business continuity.
- r. Agreeing, recommending and reviewing key corporate and financial strategies (including but not limited to those relating to workforce matters; ICT; information management, information governance and data protection; communication and engagement) which do not fall within the remit of other committees.

s. [Management of the Community Safety budget.](#)

s.t. Dealing (in the first instance) with any matters of general policy which do not fall within the terms of reference of any other committee and are not reserved to the Full Council.

**In carrying out its responsibilities the committee will:**

1. Work in partnership with other policy committees and sub-committees.
2. Develop, make decisions about, and keep under review, the committee's budget ensuring any decisions about spend are made within the allocated budget envelope.
3. Ensure any decisions about additional spend to the committee's agreed budget are in accordance with the Financial Regulations (see the [Council Operating Framework](#), Annex 5.1).
4. Have consideration to the Risk Management Strategy, key performance indicators and any action relevant to the committee's remit.
5. Have oversight of any matters of interest or concern relevant to this committee's remit.

**To make recommendations regarding:**

- a. New policies or changes in policy within the remit of the committee which would require resources beyond those allocated to the committee.
- b. Financial programmes for overall revenue and capital expenditure, including the Medium Term Financial Strategy and, as part of the annual budget setting process, the level of Council Tax and Prudential Indicators, subject to consultation with other policy committees.
- c. Changes of use of council owned (General Fund) land, subject to consultation with other policy committees who may be responsible for services currently operating from the land in question.
- d. Annual pay policy statements.
- e. Civic and ceremonial matters as detailed in 4(7) above.
- f. Polling District and Ward Reviews, ballots and referendums.
- g. Changes to this committee's terms of reference.
- h. Other matters under the committee's jurisdiction which, by virtue of statutory provision, must be determined by Full Council.

**To resolve:**

1. New policies or changes in policy within the remit of the committee which can be accommodated within the committee's overall allocation of resources.
2. The formation of other subsidiary companies and special purpose vehicles as deemed necessary to support property projects.
3. Determination of applications by community organisations for rental subsidies in respect of their use of council owned land.
4. Determination of the tax base for Council Tax purposes.
5. Rents and charges for services, accommodation and land which are outside the purview of other committees.
6. Responses to consultations from the Government, other authorities and external agencies where there is a potentially significant impact upon the delivery of services falling under the remit of the committee.

<b>Community and Wellbeing Committee</b>	8 members
<p><b>Terms of reference:</b></p> <p><u>1.</u> To carry out the functions falling within the committee’s area of responsibility as set out below, working within the budget and policy framework approved by the Full Council, except where these functions remain reserved to the Full Council or have been delegated to another committee. <u>Where a new or changed policy will have a budget impact outside the budget approved by the Full Council, this must be referred to the Strategy and Resources Committee.</u></p> <p><u>1.2.</u> To establish sub-committees to progress work of the committee.</p> <p><u>2.3.</u> To decide on matters falling within its responsibility or delegate decision making to Directors, <u>in accordance with Appendix 2.</u> However, this does not prevent the committee from choosing to exercise the function itself.</p> <p><b>Areas of responsibility:</b></p> <ul style="list-style-type: none"> <li>a. Tourism, culture, and recreational activities including the arts, sports and other leisure activities.</li> <li>b. Procuring and managing the leisure centre contract.</li> <li>c. Council venues including The Playhouse, Bourne Hall (inc. the museum), Ewell Court House, The Rainbow Centre.</li> <li>d. Services for young people.</li> <li>e. Affordable housing.</li> <li>f. Strategic housing and investment.</li> <li>g. Housing standards, homelessness, homelessness prevention and advice, housing needs assessment.</li> <li>h. Housing benefit in relation to welfare aspects.</li> <li>i. Private sector housing and administration of housing grants.</li> <li>j. Collaboration and partnerships related to the remit of this committee.</li> <li>k. Personal social services for older and disabled persons including community meals services, community alarm, day centres, community transport.</li> <li>l. Community and voluntary sector grants.</li> <li>m. Consultations on local health service provision and NHS services.</li> <li>n. Armed Forces Covenant.</li> <li>o. Voluntary Sector.</li> </ul>	

**In carrying out its responsibilities the committee will:**

1. Work in partnership with other policy committees and sub-committees.
2. Develop, make decisions about and keep under review the committee's budget ensuring any decisions about spend are made within the allocated budget envelope.
3. Ensure any decisions about additional spend to the committee's agreed budget are in accordance with the Financial Regulations (see the [Council Operating Framework](#), Annex 5.1).
4. Have consideration to the Risk Management Strategy, key performance indicators and any action relevant to the committee's remit.
5. Work with the voluntary sector, health partners and other agencies.
6. Have oversight of any matters of interest or concern relevant to this committee's remit.

**To make recommendations regarding:**

- a. Changes to this committee's Terms of Reference.
- b. Other matters under the committee's jurisdiction which, by virtue of statutory provision, must be determined by Full Council.
- c. New policies or changes in policy within the remit of the committee which would require resources beyond those allocated to the committee.

**To resolve:**

- a. New policies or changes in policy within the remit of the committee which can be accommodated within the committee's overall allocation of resources.

<b>Environment Committee</b>	8 members
<p><b>Terms of reference:</b></p> <ol style="list-style-type: none"> <li>1. To carry out the functions falling within the committee’s area of responsibility as set out below, working within the budget and policy framework approved by the Full Council, except where these functions remain reserved to the Full Council or have been delegated to another committee. <u>Where a new or changed policy will have a budget impact outside the budget approved by the Full Council, this must be referred to the Strategy and Resources Committee.</u></li> <li><del>2. To recommend to Full Council new or changes in previously agreed policies.</del></li> <li><del>3.2.</del> To establish sub-committees to progress work of the committee.</li> <li><del>4.3.</del> To decide on matters falling within its responsibility or delegate decision making to Directors, <u>in accordance with Appendix 2.</u> However, this does not prevent the committee from choosing to exercise the function itself.</li> </ol> <p><b>Areas of responsibility:</b></p> <ol style="list-style-type: none"> <li>a. Waste management refuse collection and recycling services.</li> <li>b. Climate change strategy and environmental improvement schemes.</li> <li>c. Highway matters that are the responsibility of the Epsom and Ewell Borough Council, including drainage.</li> <li>d. Consider and approve local transportation policy.</li> <li>e. Transport contract.</li> <li>f. Contaminated Land and Waterways.</li> <li>g. Parks, open spaces and countryside (including events), and allotments.</li> <li>h. Grounds maintenance, including the grounds maintenance contract (which covers NJMC, EWDC, Cemetery and bedding plants).</li> <li>i. Public spaces, public realm and cleansing.</li> <li>j. Street trading including markets.</li> <li>k. Environmental protection, pollution control and biodiversity.</li> <li>l. Tree contract.</li> <li>m. Food hygiene.</li> <li>n. Health and safety.</li> <li>o. Burials, cemeteries, and closed churchyards.</li> </ol>	

p. Street naming and numbering.



- q. Parking including the provision and management of parking and the fixing of charges and parking enforcement.
- r. Collaboration and partnerships related to the remit of this committee.

**In carrying out its responsibilities the committee will:**

1. Work in partnership with other policy committees and sub-committees.
2. Develop, make decisions about and keep under review the committee's budget ensuring any decisions about spend are made within the allocated budget envelope.
3. Ensure any decisions about additional spend to the committee's agreed budget are in accordance with the Financial Regulations (see the [Council Operating Framework](#), Annex 5.1).
4. Have consideration to the Risk Management Strategy, key performance indicators and any action relevant to the committee's remit.
5. Work with partners and other agencies to fulfil its responsibilities.
6. Have oversight of any matters of interest or concern relevant to this committee's remit.

**To make recommendations regarding:**

- a. Changes to this committee's terms of reference.
- b. Other matters under the committee's jurisdiction which, by virtue of statutory provision, must be determined by Full Council.
- c. New policies or changes in policy within the remit of the committee which would require resources beyond those allocated to the committee.

**To resolve:**

- a. New policies or changes in policy within the remit of the committee which can be accommodated within the committee's overall allocation of resources.
- b. Responses to consultations from the Government, other authorities and external agencies where there is a potentially significant impact upon the delivery of services falling under the remit of the committee.
- c. Rents and charges for services, accommodation and land, not under the purview of another committee.

<p><b>Licensing and Planning Policy Committee</b></p>	<p>8 members</p>
<p><b>Terms of reference:</b></p> <ol style="list-style-type: none"> <li>1. To be responsible for exercising regulatory and policy functions under the relevant legislation concerning the determination of:                     <ol style="list-style-type: none"> <li>a. Alcohol and entertainment licence applications.</li> <li>b. Gambling licence applications.</li> <li>c. Applications for the granting, renewal, transfer or revocation or sex establishments licenses; private hire and public hire licences.</li> </ol> </li> <li>2. To be responsible for influencing and controlling development and use of land as Local Planning Authority including:                     <ol style="list-style-type: none"> <li>a. Preparation, adoption and review of the statutory Development Plan, including Local Development Documents.</li> <li>b. Preparation, adoption and review of Supplementary Planning Documents.</li> </ol> </li> <li><u>3.</u> To carry out the functions falling within the committee’s area of responsibility as set out below, working within the budget and policy framework approved by Full Council, except where these functions remain the reserve of the Full Council or have been delegated to another committee. <u>Where a new or changed policy will have a budget impact outside the budget approved by the Full Council, this must be referred to the Strategy and Resources Committee.</u></li> <li><u>3.4.</u> To recommend to council new or changes to previously approved policies.</li> <li><u>4.5.</u> To establish sub-committees or member working groups to progress work of the committee.</li> <li><u>5-6.</u> To decide on matters falling within its responsibility or delegate decision making to Directors of the council, <u>in accordance with Appendix 2.</u> However, this does not prevent the committee from choosing to exercise the function itself.</li> </ol> <p><b>Areas of responsibility:</b></p> <p>To consider and approve:</p> <ol style="list-style-type: none"> <li>a) Local Plan documents for public consultation (including Development Plan Documents up to Preferred Options stage and Supplementary Planning Documents up to Consultation stage).</li> <li>b) Final versions of Supplementary Planning Guidance (including Masterplans and Design Codes) Planning Guidance Documents, land use policy statements,</li> </ol>	

masterplans and briefs for specific areas and any subsequent changes to the Development Plan not constituting a new or substantially revised Development Plan Document.

- c) Other informal policy guidance for adoption.
- d) The council's Local Development Scheme and Annual Monitoring Report.
- e) Planning enforcement.
- f) Draft Conservation Area Appraisals and Management Plans for public consultation, and, the final version of Conservation Area Appraisals and Management Plans.
- g) The council's Local List of historic assets or policy documents to safeguard the historic environment.
- h) Matters related to the Community Infrastructure Levy (CIL), including Strategic and Neighbourhood CIL, leading up to the examination in public and the adoption of the CIL charging schedule.
- i) Hackney Carriage and Private Hires policies and procedures.
- j) A licensing policy statement and gambling policy statement for recommendation to the Full Council and to keep this under review in accordance with the Licensing Act 2003 and the Gambling Act 2005 respectively.

Other areas of responsibility:

- k) To consider and recommend for approval to Full Council, submission versions of Development Plan documents.
- l) To consider and comment upon other authorities' or stakeholder's planning policy documents.
- m) To respond to government consultations on draft planning legislation and proposed planning policies.
- n) To consider any other planning policy matters not included in any of the above as deemed necessary by the Head of Place Development.
- o) To consider and determine (or delegate to a licensing sub-committee in accordance with Appendix 2):
  - (i) Opposed and / or contentious applications made under the Licensing Act 2003 and / or applications for review under the said Act.
  - (ii) Opposed and / or contentious applications made under the Gambling Act 2005 and / or applications for review under the said Act.
  - (iii) Opposed and / or contentious applications for the granting, renewal, transfer or revocation or sex establishments licenses; private hire and public hire licences in reference to applications listed in 1 a) above.
- p) Collaboration and partnerships related to the remit of this committee.

**To make recommendations regarding:**

- a. Changes to this committee's terms of reference.
- b. Other matters under the committee's jurisdiction which, by virtue of statutory provision, must be determined by Full Council.
- c. New policies or changes in policy within the remit of the committee which would require resources beyond those allocated to the committee.

**To resolve:**

- a. New policies or changes in policy within the remit of the committee which can be accommodated within the committee's overall allocation of resources.
- b. Preparation and review of Local Planning Development Documents.
- c. Adoption of Neighbourhood Development Plans.
- d. Adoption of Supplementary Planning Documents.
- e. Confirmation of Conservation Area designations.
- f. Confirmation of lists of local heritage assets.
- g. Responses to consultations from the government, other authorities, external agencies and other bodies, including transportation related consultations, where they would have a significant impact on the delivery of the Local Plan or on the Borough's environment.
- h. The seeking of Deemed Planning Consents.
- i. Approving Local Development Orders, Neighbourhood Development Orders and Community Right to Build Orders.

<p><b>Crime and Disorder Committee</b></p>	<p>5 members</p>
<p><b>Terms of reference:</b></p> <p>1. To carry out the functions falling within the committee’s area of responsibility as set out below, working within the budget and policy framework approved by the Full Council, except where these functions remain reserved to the Full Council or have been delegated to another committee within the council’s scheme of delegation.  <u>Where a new or changed policy will have a budget impact outside the budget approved by the Full Council, this must be referred to the Strategy and Resources Committee.</u></p> <p><del>1. To recommend to Full Council new or changes in previously agreed policies.</del></p> <p>2. To decide on matters falling within its responsibility or delegate decision making to Directors, <u>in accordance with Appendix 2.</u> However, this does not prevent the committee from choosing to exercise the function itself.</p> <p>3. The committee will normally meet twice during the course of the year.</p> <p><b>Areas of responsibility:</b></p> <p>a. Input into the development of the Community Safety Partnership (CSP) work programme and strategy, through attendance at its meetings by the Chair <del>or Vice Chair</del> of the Crime and Disorder Committee.</p> <p>b. Consider crime and disorder issues which are not covered by the work of the CSP and be responsible for developing the council’s response to emerging issues, legislation and developing policy.</p> <p>c. Oversee the council’s response to the PREVENT and PROTECT activities both of which are part of counter terrorism activities and strategy, CONTEST, and ensure that the council is considering the recommendations of these guidelines in the discharge of its duties and the work that it does.</p> <p>d. Consider council led initiatives relating to crime and disorder which would not fall under the remit of the CSP or any other committee.</p> <p>e. Make recommendations to <u>Council the Strategy and Resources Committee</u> for any items of expenditure <u>outside the budget approved by the Full Council.</u></p> <p>f. <u>Chair of Crime and Disorder Committee to have oversight of the Community Safety budget (held and overseen by Strategy and Resources Committee) along with the Community Safety Reserves, both of which shall be <del>monitored</del> monitored via quarterly meetings (in line with financial reporting) at meetings with the Head of Housing and Community (or their nominee).</u></p>	

**In carrying out its responsibilities the committee will:**

1. Work in partnership with other policy committees and sub-committees.
2. Develop, make decisions about and keep under review the committee's budget ensuring any decisions about spend are made within the allocated budget envelope.

3. Ensure any decisions about additional spend to the committee's agreed budget are in accordance with the Financial Regulations.
4. Have consideration to the Risk Management Strategy, key performance indicators and any action relevant to the committee's remit.
5. Work with partners and other agencies to fulfil its responsibilities.
6. Have oversight of any matters of interest or concern relevant to this committee's remit.

**To make recommendations regarding:**

- a. Changes to this committee's terms of reference.
- b. Other matters under the committee's jurisdiction which, by virtue of statutory provision, must be determined by Full Council.
- c. New policies or changes in policy within the remit of the committee which would require resources beyond those allocated to the committee.

**To resolve:**

- a. New policies or changes in policy within the remit of the committee which can be accommodated within the committee's overall allocation of resources.
- b. Responses to consultations from the Government, other authorities and external agencies where there is a potentially significant impact upon the delivery of services falling under the remit of the committee.



<b>Planning Committee</b>	10 members
<p>Full Council will appoint a Planning Committee, which will be responsible for dealing with planning applications and related matters.</p> <p><b>Terms of reference:</b></p> <ol style="list-style-type: none"> <li>1. To be responsible for exercising <del>regulatory</del> functions under the Town and Country Planning legislation specifically <u>the determination of planning and related applications involving:</u> <ol style="list-style-type: none"> <li>i. <u>Applications for planning permission for major development (except where the application is made under section 73 of the Town &amp; Country Planning Act 1990 – a minor material amendment/development without compliance with original conditions);</u></li> <li>ii. <u>Applications for planning permission for development which require to be advertised as a departure from development plan, as a whole, but which are recommended for approval;</u></li> <li>iii. <u>Applications for planning permission or listed building consent that are submitted by or on behalf of any Member of the Council (or their spouse or partner) or any Council employee (or their spouse or partner).</u></li> <li>iv. <u>Development promoted by the Council itself.</u></li> <li>v. <del>Determination of planning and related applications.</del> <ol style="list-style-type: none"> <li>i. <del>—</del></li> <li>ii. <del>Determination of Tree Preservation and High Hedges applications.</del></li> </ol> </li> </ol> </li> <li>2. To receive and review the summary of enforcement action taken in response to breaches of control on a quarterly basis.</li> <li>3. To receive and review summaries of planning appeals on a quarterly basis or when appeals have been received as appropriate.</li> </ol> <p><b>To make recommendations regarding:</b></p> <ol style="list-style-type: none"> <li>4. Applications for planning related permission submitted by the council itself.</li> <li>5. Changes to the committee’s terms of reference.</li> <li>6. Other matters under the committee’s jurisdiction which, by virtue of statutory provision, must be determined by Full Council.</li> </ol> <p><b>To resolve:</b></p> <ol style="list-style-type: none"> <li>7. Determination of planning and related applications referred to the committee by any member of the council and / or the Head of Place Development in accordance with the provisions set out in the council’s constitution.</li> </ol>	

8. Guidelines under which the committee shall determine its level of involvement in individual planning, building and enforcement decisions.
9. Confirmation (or modification) of Tree Preservation Orders where there are unresolved objections.

**Delegation to Officers:**

10. ~~To the Chief Executive and Directors, the power to authorise, in writing, officers to enter on to land or to apply for a warrant and thereafter enter land pursuant to sections 196A-196C and 214B-214D of the Town and Country Planning Act 1990 as amended.~~

**2.3. Sub-Committees**

Sub Committee	Terms of Reference	Number of Councillors
<p>Licensing (Hearings) Sub Committee</p> <p>(note: political balance requirements do not apply)</p>	<p>Will determine applications:</p> <ul style="list-style-type: none"> <li>(a) For a personal licence where an objection has been made.</li> <li>(b) For a personal licence with unspent convictions.</li> <li>(c) For premises licence where a representation has been made.</li> <li>(d) For a club premises certificate where a representation has been made.</li> <li>(e) For a provisional statement where a representation has been made.</li> <li>(f) To vary a premises licence/club premises certificate where a representation has been made.</li> <li>(g) To vary designated premises supervisor if there is a police objection.</li> <li>(h) For transfer of premises licence if there is a police objection.</li> <li>(i) For interim authorities if there is a police objection.</li> <li>(j) To review a premises licence/club premises certificate.</li> </ul> <p><b>Membership</b></p> <p>Licensing sub-committees will be formed of any three members from the Licensing Panel, which is a pool of councillors appointed by the Full Council.</p>	<p>3 members</p>

	<p>Committee members appointed to the Licensing (Hearings) Sub Committee must be drawn from those who also sit on Licensing &amp; Planning Policy Committee.</p> <p>The three members appointed for any hearing shall be selected by Democratic Services, and the sub-committee will appoint a Chair for a sub-committee meeting.</p> <p>Members of any licensing sub-committee must be trained in licensing matters to participate in any such meeting.</p>	
<p>Licensing (General) Sub Committee</p> <p>(note: political balance requirements do not apply)</p>	<p>Will determine applications:</p> <ul style="list-style-type: none"> <li>(a) Opposed and/or contentious applications for the granting, renewal, transfer or revocation of gaming permits.</li> <li>(b) Opposed and/or contentious applications for the granting, renewal, transfer or revocation of sex establishment licences.</li> <li>(c) Contentious applications for the grant or renewal of Private Hire and Hackney Carriage Driver, Vehicle and Operator Licences and the refusal, suspension or revocation of these licences where serious offences or breaches of licence conditions have been committed.</li> </ul> <p><b>Membership</b></p> <p>Licensing sub-committees will be formed of any three members from the Licensing Panel, which is a pool of councillors appointed by the Full Council.</p> <p>Committee members appointed to the Licensing (General) Sub Committee are not required to be members of the Licensing &amp; Planning Policy Committee.</p>	<p>3 members</p>

	<p>The three members appointed for any hearing shall be selected by Democratic Services, and the sub-committee will appoint a Chair for a sub-committee meeting.</p> <p>Members of any licensing sub-committee must be trained in licensing matters to participate in any such meeting.</p>	
<p>Shareholder Sub Committee  (politically balanced)</p>	<p>The Shareholder Sub-Committee acts in accordance with the terms of reference below so far as they relate to any company established as a wholly owned company of the council.</p> <p>The Strategy &amp; Resources Committee shall appoint the Chair of the Shareholder Sub-Committee at its first meeting in the municipal year, who shall hold office until the next such meeting. If the Chair resigns by giving written notice of resignation to the Chief Executive, the sub-committee shall, as the first item of business at its next meeting, elect a successor, to hold office until a replacement can be appointed by the Strategy &amp; Resources Committee. The Chair, if present, shall preside. If the Chair is absent, the Sub-Committee shall elect one of the members present as Chairman of the meeting.</p> <p>The Sub-Committee will comply with the Political Balance Rules in Section 15 of the Local Government and Housing Act 1989.</p> <p><b>The committee must meet once per annum.</b></p> <p>(a) Power to remove and appoint company directors.</p> <p>(b) Approve the annual company business plan, ensuring that it aligns with the corporate objectives of the council.</p>	<p>5 members</p>

	<p>(c) Periodically evaluate financial performance of a company, and performance against the current business plan.</p> <p>(d) Consider any recommendations to cease trading by a company.</p> <p>(e) Monitor compliance with relevant legislation.</p> <p>(f) Approve any Shareholder Agreement with the company, or any variation to such agreement.</p> <p>(g) Consider such other matters, as require prior consultation with shareholders or as are reserved to the Shareholders in general meeting, and make such decision on those matters as they think fit.</p>	
<p>Standards &amp; Constitution Hearing Sub Committee</p>	<p>Determination of complaints referred by the Monitoring Officer and Investigating Officer regarding alleged breaches of the councillors' Code of Conduct. Such Panels shall comprise three Borough councillors serving on the Standards and Constitution Committee.</p>	<p>3 members</p>

**3.4. Advisory Panels**

**3.1.4.1.** Advisory panels may make recommendations to the relevant committee or directly to the Full Council, if agreed by the relevant committee.

**3.2.4.2.** The council currently has three standing advisory panels which will report as required to the appropriate committee or Full Council. The terms of reference for all advisory panels are set out below.

**3.3.4.3.** In accordance with the aims and objectives set by the Full Council in its corporate plan the principles of best value, and within the approved budget and policy framework, the following advisory panels have been established to advise the council and its committees / sub-committees on any matter relating to the following subject area:

- i. Financial Policy [Strategy and Resources Committee]
- ii. Human Resources [Strategy and Resources Committee]
- iii. Health Liaison [Community and Wellbeing Committee]

**3.4.4.4.** Note: Advisory Panels are subject to the rules on political proportionality.

Advisory Panel	Terms of Reference	Number of Councillors
Financial Strategy Advisory Group	1 To advise the Strategy and Resources Committee on:  (a) all matters relating to the budget and policy framework (including the setting of staff pay).  (b) new legislation or government policy relating to local government finance.  (c) procurement strategy and those matters that have budget or procurement implications for more than one committee.	6 members  Membership to include: Chairs of the Environment, Community & Wellbeing, Licensing & Planning Policy Committees. The FSAG Chair will be the Strategy & Resources Chair.

	<p>(d) performance against key performance indicators.</p> <p>2 To ensure effective scrutiny of the treasury management strategy and policies.</p> <p>3 To respond on behalf of the Strategy and Resources Committee to urgent consultation requests from central or regional government.</p> <p>4 To review annual capital proposals and recommend a five-year capital programme to policy committees.</p> <p>To advise Audit &amp; Scrutiny Committee on:</p> <p>1 Monitoring of treasury management performance.</p>	
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<p>Health Liaison Panel</p>	<p>1 To advise the Community &amp; Wellbeing Committee on:</p> <p>(a) preparing, promoting and monitoring the Council’s Health Strategy in association with National Health Service bodies, Social Services and the voluntary sector.</p> <p>(b) providing leadership and liaising with NHS bodies, the County Council and other agencies to promote the effective use of all resources and the delivery of best value Health and Social Services to the community.</p> <p>2 Working in partnership with a councillor from each of the following – Elmbridge Borough Council, Mole Valley District Council, Reigate and Banstead Borough Council and officers from these local authorities on:</p> <ul style="list-style-type: none"> <li>• Promoting the interests of the local residents in any decisions concerning health services.</li> </ul>	<p>6 members</p>
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	<ul style="list-style-type: none"> <li>• developing a shared vision for the nature, location and quality of local NHS services.</li> <li>• facilitating partnership working and the sharing of information and to co-ordinate input into the NHS decision-making processes.</li> <li>• providing a focus for the councillor-lead meetings and interaction with local NHS representatives.</li> <li>• Furthering the local democratic legitimacy of NHS bodies and their local public accountability.</li> </ul>	
<p>Human Resources Panel</p>	<ol style="list-style-type: none"> <li>1 To advise the Strategy and Resources Committee on:             <ol style="list-style-type: none"> <li>(a) Key points of the annual workforce report.</li> </ol> </li> <li>2 The Panel is able to invite the Chair of the Staff Consultative Group to attend the Panel for specific items as and when required.</li> </ol>	<p>6 members</p>

**4.5. Joint Arrangements**

**4.1.5.1.** The council may establish joint arrangements with one or more local authorities, or other permitted bodies, to exercise functions of any of the participating authorities or advise the council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

**4.2.5.2.** The council has entered into a number of joint arrangements. Further details on these arrangements are set out below.

<b>Joint Committee</b>	<b>Terms of Reference</b>	<b>Number of Councillors</b>
<p>Nonsuch Joint Management Committee</p>	<p>Nonsuch Park is managed and maintained by a Joint Management Committee, comprising an equal number of councillors from Epsom and Ewell Borough Council and the London Borough of Sutton council. The committee Chair rotates between the two councils annually. The two councils fund, on an equal basis, the running of the Park, after taking income into account.</p> <p>The committee is covered by the political balance arrangements.</p>	<p>3</p>
<p>Coast to Capital Joint Committee</p>	<p>The purpose of the Coast to Capital Joint Committee is to approve the Strategic Economic Plan and proposed Growth Deal for the Coast to Capital Local Enterprise Partnership (LEP) area.</p> <p>The Coast to Capital area encompasses all of the county of West Sussex, Brighton &amp; Hove, Lewes, Croydon and the four eastern Surrey districts (being this Epsom and Ewell, Mole Valley, Reigate and Banstead, and Tandridge). There are two county councils, two unitary authorities, 12 district and borough councils and the South Downs National Park Authority within the area and partnership. It is one of the larger LEPs outside London, with just</p>	<p>1</p>

	<p>under 2 million residents and over 150,000 businesses and organisations.</p> <p>The Committee includes representatives from all 16 authorities and the South Downs National Park Authority. The LEP and other business interests and organisations are not eligible to serve on this Joint Committee, which has been established under the Local Government Act 1972.</p>	
Epsom and Ewell Community Safety Partnership	<p>The council is required, under the Crime &amp; Disorder Act 1998, to participate in a Community Safety Partnership along with several other statutory bodies. The council currently takes part in the Epsom &amp; Ewell Community Safety Partnership, which has identified thematic priorities for collaborative working.</p>	1
Surrey Police & Crime Panel	<p>A joint committee comprising the 12 local authorities in Surrey and two independent members to carry out the functions set out in the Police Reform and Social Responsibility Act 2011.</p>	1

**5.6. Area committees**

**5.1.6.1.** The Full 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, efficiency, and transparent and accountable decision making.

**5.2.6.2.** In the event that the Full Council decides, after consultation, to create any area committee(s), it will include, within a scheme approved for that purpose, provision for their form, composition and function. This is to avoid conflicts of interest through councillors' membership of other committees, related to access to information.

<b>Area Committee</b>	<b>Terms of Reference</b>	<b>Number of Councillors</b>
At present there are no area committees.		

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## Appendix 4 - Standing Orders of the Full Council

### Introduction

The purpose of these Full Council rules of procedure (“FCR”, often referred to as the “Standing Orders”) is to regulate the proceedings and business of the Full Council of Epsom and Ewell Borough Council and ensure its business is carried out transparently and in accordance with good governance. The rules are there to guide and assist councillors with good decision making. They should not be used to obstruct the process of working efficiently and effectively. Definitions for key terms are available in Annex 1.2 of the [Operating Framework](#).

### 1. FCR 1 - Calling a meeting

- 1.1. The Full Council will meet on such dates each year as are agreed when the calendar of meetings is approved or amended (ordinary meetings) or as required.
- 1.2. The Annual Meeting shall normally be held on an appropriate date in May at 19.00 hours.
- 1.3. The Budget Meeting shall normally be held on an appropriate date in February at 19.30 hours.
- 1.4. A meeting of the Full Council can be called at any time by the Mayor (an extraordinary meeting).
- 1.5. The Chief Executive, Chief Finance Officer and Monitoring Officer can each at any time direct that a meeting of the Full Council be called (an extraordinary meeting).
- 1.6. Any five councillors acting together may direct that a meeting of the Full Council be called (an extraordinary meeting). The councillors shall first send a joint written request asking the Mayor to call a meeting (the request should be sent to the Head of Legal Services). If the Mayor refuses or does not call a meeting within seven days after receiving the request, the councillors may direct the Head of Legal Services to do so forthwith. The request shall set out the business to be considered at the meeting.
- 1.7. In relation to every meeting, the Proper Officer shall send to all councillors a Summons to the meeting at least five clear working days before the day of the meeting.
- 1.8. The Summons shall specify the business proposed to be transacted at the meeting to which it relates.
- 1.9. Unless the contrary is set out in the Summons, meetings of the council shall begin at 19:30 hours and shall be held in the Council Chamber at The Town

Hall in Epsom.

## **2. FCR 2 - Order of business**

2.1. At the Annual Meeting, the order of business shall be as follows:

- i. Appointment of the Mayor.
- ii. Appointment of the Deputy Mayor.
- iii. To receive any declarations of interest.
- iv. Consideration of the minutes of the previous meeting(s).
- v. Any business required by statute to be done.
- vi. Approval of the Constitution, with or without changes.
- vii. Appointments to committees (including any joint committees), sub-committees and panels in accordance with the political balance rules as appropriate.
- viii. Appointments of committee, sub-committee and Panel Chairs.
- ix. Appointments to Outside Bodies except where appointment to those bodies has been delegated by the Full Council to a Chair or confirmation of such, if such appointments have been previously made on a fixed term basis and that fixed term has not expired.
- x. Any business which in the view of the Mayor and Chief Executive is urgent and cannot be dealt with by one of the council's committees.
- xi. Approve a programme of ordinary meetings of the Full Council for the year.

2.2. At ordinary meetings the order of business shall be as follows:

- i. Appointment of a person to preside if the Mayor and Deputy Mayor are both absent.
- ii. To receive any declarations of interest.
- iii. Consideration of the minutes of any previous meeting not already approved.
- iv. Any business required by statute to be done.
- v. To receive such communications or deal with such business as the Mayor may wish to lay before the Full Council.
- vi. Business remaining from the previous meeting.
- vii. To receive any petitions from the public in accordance with the Petition Scheme (Annex 6.1 of the [Operating Framework](#)).



- viii. Questions from councillors.
  - ix. Chairs' statements.
  - x. Recommendations from committees.
  - xi. Reports from officers.
  - xii. Motions on notice.
  - xiii. Any other business set out in the Summons or which may be added pursuant to Standing Orders.
  - xiv. Any business which in the view of the Mayor and the Chief Executive is urgent and cannot be dealt with by one of the council's committees.
- 2.3. At an extraordinary meeting the order of business shall be as follows:
- i. Appointment of a person to preside if the Mayor and Deputy Mayor are both absent.
  - ii. To receive any declarations of interest.
  - iii. The business specified in the request / direction that the meeting be called.
- 2.4. Unless subject to a statutory requirement, the order of consideration of business at any meeting may be changed by the Mayor or by the will of the meeting following a motion to that effect, which shall be moved, seconded and put to the vote without debate. The mover of the motion shall be entitled to make a short statement (maximum 2 minutes) to explain why they believe the order of business should be changed.
- 2.5. Business which the Full Council decides should be exempt (not open to public observation) will be dealt with after the press and public have been excluded, and shall normally be considered after all other business has been concluded.
- 2.6. On consideration of the minutes of a previous meeting, there shall be no discussion except in relation to their accuracy. Any question as to the accuracy of the minutes shall be raised by way of a formal motion seeking to alter the minutes. Following approval of the minutes, they shall be signed by the Mayor.
- 3. FCR 3 - Quorum**
- 3.1. No business may be transacted at a meeting of Full Council unless at least one quarter (rounded up) of the members of the Full Council are present.
- 3.2. If at the time a meeting is scheduled to start, or at any time during a meeting, the Mayor declares that a quorum is not present, the Mayor may call for an

adjournment of 15 minutes for quorum to be reached. If a quorum is still not achieved following this, the meeting shall be adjourned to a date and time fixed by the Mayor at the time the meeting is adjourned, or to the date of the next ordinary meeting of the full Council.

#### **4. FCR 4 - Voting**

- 4.1. Subject to the provisions of any enactments, all motions coming or arising before the council shall be decided by a majority of the members of the council present and voting thereon at a meeting of Full Council.
- 4.2. A question may be decided by “unanimous consent” where the Mayor asks if a matter is agreed and no member objects. In the event of any councillor objecting, a formal vote shall be taken.
- 4.3. Except as otherwise provided, voting shall be on a show of hands of those present.
- 4.4. In the case of an equality of votes, the Mayor shall have a second or casting vote.
- 4.5. The number of councillors voting for, against or abstaining on a Motion, shall be recorded in the minutes.

#### **4.6. Request for a Recorded Vote on an agenda item**

- 4.6.1. If a councillor present at the meeting requests a recorded vote on a matter, such councillor will require seven additional members present (8 in total) to support such a request and such request must be made before voting commences. In the event a recorded vote is agreed, the names for and against the motion or amendment or abstaining from voting, will be taken down in writing and entered into the minutes.
- 4.6.2. Unless a recorded vote has been taken, immediately after any vote has been taken, following a request to that effect from any councillor, their vote for or against the motion, or their abstention, shall be recorded in the minutes.

#### **4.7. Voting on appointments to Outside Bodies**

- 4.7.1. Where there are any appointments to be made to outside bodies by the council and the number of persons nominated exceeds the number of vacancies, a secret ballot shall be held. Each councillor shall be entitled to vote for as many individuals as there are vacancies. The nominee(s) with the most votes shall be taken to be appointed. The Chief Executive shall announce the voting figures and shall identify the successful candidates to the meeting, which shall be asked to give its consent to the appointments.

#### **5. FCR 5 - Appointment of Committees and Chair**

- 5.1. The Full Council shall at the Annual Meeting appoint such committees, sub-

- committees, advisory panels and other bodies as are deemed necessary to carry out the work of the council.
- 5.2. The Full Council may at any time appoint such other committees or bodies as are necessary to carry out the work of the council, whether on an ongoing or time-limited project specific basis.
- 5.3. Subject to any statutory provision, Full Council:
- i. Shall not appoint any member of a committee to hold office later than the next Annual Meeting of the Full Council unless such appointment is for a fixed term basis.
  - ii. May at any time dissolve a committee, sub-committee, advisory panel or other body, or alter its membership.
- 5.4. The Full Council may, at any meeting, including the Annual Meeting appoint a Chair and Vice-Chair of committees, sub-committees, advisory panels and other bodies. It may also appoint members of committees, sub-committees, advisory panels and other bodies, and nominate to outside bodies. In the event of any vacancy arising during the course of the municipal year, the relevant committee, sub-committee and advisory panels are able to make such appointments as necessary until the next meeting of Full Council. Appointments to vacancies on joint committees or nominations to outside bodies shall be made by Full Council at the next ordinary or extraordinary meeting of Full Council.
- 5.5. At any one time a councillor may hold the office of Chair of only one of any of the following committees:
- i. Any of the five policy committees.
  - ii. Planning
  - iii. Audit and Scrutiny Committee

## **6. FCR 6 - Speeches and Recorded Vote for Budget Decisions**

- 6.1. The Chair of Strategy and Resources Committee will present the council's budget at the Budget Meeting. The presentation will not be subject to any time limit. A representative of each Group shall present their response to the budget, and they shall have 10 minutes to do so. The matter will then be opened to debate in accordance with Standing Orders. Any councillor wishing to speak on the budget will have 3 minutes to do so, and any amendment will be considered in accordance with Standing Orders. The Chair of Strategy and Resources Committee will conclude the debate on the budget with a reply lasting no longer than 10 minutes.
- 6.2. In any event, at any meeting of the Full Council at which a Budget Decision is made, there shall be a recorded vote on any decision relating to the budget or council tax. The names for and against any motion or amendment or abstaining from voting, will be taken down in writing and entered into the minutes.

## **7. FCR 7 - Role of the Mayor**

- 7.1. The Mayor, if present, shall preside at meetings of the Full Council. If the Mayor is absent, the Deputy Mayor shall preside at a meeting.
- 7.2. If both the Mayor and Deputy Mayor are absent, the first business of the meeting shall be to elect a member to take the chair and preside over the meeting.
- 7.3. Should the Mayor wish, in exceptional circumstances, to take part in debate on an issue before the Full Council, they should vacate the Chair for the whole of that item in favour of the Deputy Mayor.
- 7.4. All powers or duties of the Mayor at a meeting may be exercised by whoever is appointed to preside over the meeting.
- 7.5. The ruling of the Mayor as to the meaning or application of these rules of procedure or as to any proceedings of the full Council shall be final and shall not be challenged at any meeting of the full Council.
- 7.6. The Mayor shall decide whether any question or motion submitted by a councillor is in order and should be included in the agenda. If any question or motion is ruled out of order, the councillor who gave it shall be informed of the reason for such ruling.
- 7.7. The Mayor, following consultation with the Chief Executive, shall decide whether an item of business not set out in the summons shall be considered at a meeting as a matter of urgency by reason of special circumstances, which shall be announced and specified in the minutes of the meeting.
- 7.8. The Mayor shall rule on any point of order which arises during a meeting, and shall first be entitled to seek such advice as they think necessary.
- 7.9. The Mayor shall control the debate on any matter to avoid excessive repetition and confine debate within the scope of the meeting and reasonable limits of time. In so doing, the Mayor shall remain impartial and ensure that different viewpoints are heard.
- 7.10. Whenever the Mayor stands up during a debate any member then standing shall resume their seat and the councillors shall be silent. The Mayor may interrupt the debate to restore order by using the command “order”, or by striking the gavel. The councillors must then be silent until the Mayor calls on a councillor to speak.

## **8. FCR 8 - Good Order at Meetings**

### **Disturbance by the public**

- 8.1. If a member of the public interrupts the proceedings at any meeting the Mayor shall issue them a warning. If they continue the interruption the Mayor shall order their removal from the Meeting. In case of general disturbance in any area open to the public, the Mayor shall order that area to be cleared.
- 8.2. In the event of a public disturbance, the Mayor may without question adjourn the meeting for such period as s/he considers expedient.

### **Disorderly conduct by Members**

8.3. If any councillor:

- (a) persistently disregards the ruling of the Mayor; or
- (b) behaves irregularly, improperly or offensively; or
- (c) deliberately disregards procedure; or
- (d) deliberately obstructs the business of the meeting; or
- (e) imputes improper motives, or uses any offensive expression, to any other councillor.

Then the Mayor will name the councillor and require such councillor to apologise and / or refrain from such behaviour immediately.

8.4. If a councillor, despite a Mayoral warning under Standing Orders, continues with their behaviour, the Mayor may take such action as is needed to prevent such behaviour impacting the conduct of the meeting. Such action may include:

- (a) forbid the councillor from speaking for some or all of the rest of the meeting;
- (b) order the councillor to leave the meeting for all or part of the remaining business.
- (c) order the councillor to be removed from the meeting.
- (d) adjourn the meeting for such period as they think fit

8.5. The decision of the Mayor as to acceptable conduct whether by councillors or the public shall be final.

**9. FCR 9 - Guillotine**

9.1. If all business has not been dealt with by 22.00 hours, the Mayor shall review the order of the remaining items on the agenda. Any items still outstanding shall be dealt with in the order announced by the Mayor with those items requiring a decision to be completed by 22.30 hours. The Mayor may, in order to deal with matters, which remain outstanding, adjourn the meeting to a day and time to be appointed by the Mayor.

9.2. A meeting must not sit later than 23.00 hours in any event and the operation of this Standing Order cannot be suspended.

**10. FCR 10 - Adjournment of meetings**

10.1. The Full Council may adjourn any meeting to a later hour on the same day, or to any other day and hour so long as it is within 10 working days of the original meeting.

10.2. If no date is set by Full Council for a reconvened meeting, the date shall be determined by the Mayor in consultation with the Chief Executive.

- 10.3. An adjourned meeting shall be deemed a continuation of the original meeting.
- 10.4. No business shall be transacted at any adjourned meeting which was not included in the notice convening the meeting of which it is an adjournment, subject to any agreed urgent item which may have been included by the original meeting.
- 10.5. Written notice of the adjourned meeting shall be sent by any statutory officer to each councillor specifying the business to be transacted.

## **11. FCR 11 – Chairs’ statements to Full Council**

- 11.1. The Chair of each of the policy committees is able to submit a Chairs’ statement to be included as a standard item on the agenda for each Full Council meeting (excluding the Annual Meeting and Budget Meeting). This will be a short statement briefing councillors on the current events and issues relating to the relevant committee’s area of work.

11.2. At the conclusion of all of Chairs’ statements, ~~30~~45 minutes will be set aside for councillors to ask questions on the statement of any Chair in accordance with the following:-

11.2.1. The Mayor is to manage questions, taking them in the order councillors indicated their wish to ask by raising their hands.

11.2.2. Questions must relate to the content of the Chairs’ statement only.

11.2.3. Each councillor is limited to a maximum of two questions in respect of each Chairs’ statement. Any second question may only be asked once all other councillors with a first question have already asked theirs.

11.2.4. There is no requirement for prior notice to be given to the Chair before asking a question.

## **12. FCR 12 - Questions from members of the council**

- 12.1. Ordinary meetings, except the Annual Meeting and Budget Meeting, will have 30 minutes for councillors to ask questions if the requirements of this Standing Order are satisfied. If a question is being asked or answered at the time limit, the answer must be completed within 5 minutes.
- 12.2. Notice of the question must be given in writing to the Democratic Services Manager no later than noon on the tenth clear working day before the day of the meeting.
- 12.3. The question must be addressed to the Mayor or the Chair of any committee, sub-committee or advisory panel.
- 12.4. The question must relate to a matter on which the council has statutory powers or duties or which affects the Borough or its inhabitants.
- 12.5. The Mayor, following consultation with the Head of Legal Services will reject a question, if it:
  - i. Is not about a matter falling within this Standing Order.

- ii. Concerns a matter which could be raised as casework or through the council's complaint's procedure or is specific to a particular individual or their property.
- iii. Is defamatory, frivolous or offensive.
- iv. Criticises or purports to criticise an employee / officer's competence and / or conduct and the employee / officer is identified by name, title or in any other way.
- v. Is substantially the same as a question which has been put at a meeting of the Full Council in the past six months.
- vi. Requires the disclosure of confidential or exempt information.

- 12.6. Questions shall be called by the Mayor in the order in which notice of the question was received, except that if a councillor gives notice of more than one question, their second or subsequent question(s) shall appear after all of the first questions submitted by other councillors, and so on.
- 12.7. Where practicable, a written answer to each question shall be circulated to all councillors no later than one working day before the meeting. Any oral answer may be committed to writing, and if so, will be published within four working days after the meeting.
- 12.8. A written answer must be provided within four working days to any questions not called within the 30 minute period and in respect of which no written answer has already been circulated to members.

### **Response to Questions**

- 12.9. Every question shall be put and answered without debate or comment from any other councillor. If no written answer has been circulated to councillors in advance, an explanation shall be provided as to why it has not been practicable to provide a written answer.
- 12.10. Where a question has been answered, the questioner may ask one supplementary question, which must arise from the reply provided.

### **Councillor asking question absent from meeting**

- 12.11. If a councillor asking a question (the questioner), knows they will be absent from the Full Council meeting, they may notify the Mayor of which other councillor will ask the question on their behalf. Such nominated councillors shall have the same rights as the questioner. If the councillor is absent and no substitute has been appointed, the Mayor shall first ask whether any other councillor from within the same Group as the questioner wishes to take the opportunity to ask a supplementary question. If the councillor concerned is not in a Group, or no member of the Group wishes to ask a supplementary question, then any other councillors may indicate to the Mayor their wish to ask a supplementary question, and the Mayor shall call on the first to do so, to ask their question.

### **Urgent Questions**

- 12.12. With the consent of the Mayor, following consultation with the person to whom the question is addressed, a question may be asked of which the notice required by Standing Orders has not been given where:
  - i. the question relates to an urgent matter or on an issue of relevance or importance that has come to light after notice which could have been given under Standing Orders.

In this case, notice shall be given, as soon as is practicable, and no later than noon on the day of the meeting. The time for questions from councillors will be extended to allow the asking of and reply to such a question at the meeting.

### **13. FCR 13 – petitions**

- 13.1. All petitions received shall be dealt with in accordance with the council's



Petition Scheme, which is set out at Annex 6.1 of the [Operating Framework](#).

#### **14. FCR 14 - Motions**

##### **Duration of debate**

- 14.1. Council meetings will have 90 minutes set aside to deal with all motions (including amendments) which have been brought.

##### **Motions challenging previous decisions**

- 14.2. Until at least two further ordinary meetings of Full Council have been held (being a period of no less than 6 months), no motion may be moved to rescind or alter any decision of the Full Council or a decision of a committee on a matter within its terms of reference, and no motion or amendment to the same effect as one which has been rejected by Full Council or a committee shall be moved unless, in either case:

- ii. It is recommended by a committee,
- iii. Notice of the motion has been given by at least seven councillors of the Council acting together.

##### **Notice of motion and withdrawal of motion**

- 14.3. Subject to Standing Orders on motions, where notice must be given in writing and those which may be moved without notice, any councillor may propose a motion at any meeting of the Full Council.
- 14.4. A notice of motion (other than a recommendation from a committee) must be delivered to the Democratic Services Manager by no later than noon on the tenth clear working day before the date of the meeting at which it is intended to be considered. A record will be kept of all motions received and these will be dated and numbered in the order in which they were received.
- 14.5. All motions of which notice has been duly given shall be set out in a report to the meeting in order of receipt.
- 14.6. If a councillor wishes to withdraw a motion before it appears in the agenda or before the start of a meeting, they must confirm such withdrawal to the Democratic Services Manager in writing.

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

- 14.7. Motions for which notice has been given will be listed on the agenda in the order in which the notice was received, unless the councillor giving the notice wishes to withdraw or proposes the motion for a later meeting. Motions shall be formerly moved by the councillor who gave notice, or on the written request of this councillor, by another councillor on their behalf.

##### **Urgent Motions**

- 14.8. The period of notice referred to in 14.4 above is not required in respect of Urgent Motions, provided at least one fifth of councillors have given written notice of the Motion to the Democratic Services Manager by noon of the day of the meeting of the Council. An Urgent Motion may only be considered at

the meeting if the Mayor agrees that, due to special circumstances (which must be specified in the Minutes); the subject of the Motion should be considered at the meeting as a matter of urgency.

### **Scope and wording of Motions**

14.9. All motions, including urgent motions, must be relevant to some matter on which:

- i. The council has powers or duties.
- ii. Affects the Borough.
- iii. Is something of national significance where there is a wish to acknowledge or celebrate.

14.10. Motions that relate to the functions of a policy committee, once determined by the Full Council, shall be referred to the relevant policy committee for action if action is required.

14.11. If notice is given of any motion, including urgent motions, which in the opinion of the Mayor, following consultation with the Monitoring Officer is out of order it shall not be accepted or placed on the agenda. If a motion is not accepted the councillor who gave the notice will be informed in writing. A motion can be ruled out of order if:

- i. It is not about a matter for which the council has responsibility or which affects the Borough;
- ii. Is defamatory, frivolous, or offensive.
- iii. Is in breach of Standing Orders on motions challenging previous decisions.
- iv. Requires disclosure of confidential or exempt information.

### **Motion not moved at meeting**

14.12. If at the meeting, a motion is not moved either by the councillor who gave the notice or some other councillor it shall be treated as withdrawn and shall not be moved without fresh notice being given.

### **Withdrawal of a Motion**

14.13. A motion which has been moved and seconded may only be withdrawn with the consent of the meeting.

### **Motions without notice**

14.14. The following motions may be moved without notice:

- i. To appoint a person to preside at a meeting
- ii. To correct the minutes.
- iii. To change the order of business.
- iv. To remit a matter to a committee.

- v. To appoint a committee arising from an item mentioned in the summons.
- vi. To adopt recommendations of committees or officers and to take action resulting from such adoption.
- vii. That leave be given to withdraw a motion.
- viii. To suspend rules of procedure.
- ix. To amend a motion.
- x. To defer consideration of a matter to a later date.
- xi. To adjourn the meeting.
- xii. To proceed to next business.
- xiii. That the question be now put.
- xiv. That a member be not further heard.
- xv. To exclude the public.
- xvi. To give the consent of the Full Council, where consent is required by these standing orders.

#### **15. FCR 15 – Consideration of committee recommendations**

- 15.1. A recommendation from any committee shall constitute a motion to be proposed by the Chair and shall not require to be seconded. If the Chair is not present, the Vice Chair or another member of the committee shall propose the recommendation.
- 15.2. A recommendation is open to debate in accordance with the Standing Orders on rules of debate.
- 15.3. A recommendation cannot be amended if to do so would contravene the requirement of the law or of the process for such decision-making.

#### **16. FCR 16 – Rules of debate on Motions**

##### **Addressing the Mayor**

- 16.1. After being called by the Mayor, a councillor shall stand when speaking, and address the Mayor. Only one councillor shall speak at any one time, and all other councillors shall remain seated, unless rising to make a point of order / Personal Explanation. If more than one councillor stands the Mayor shall indicate the order of speakers. Subject to Standing Orders on points of order and Personal Explanation, all other councillors shall remain seated whilst a councillor is speaking.
- 16.2. If a councillor stands to raise a Point of Order or point of Personal Explanation, the councillor shall be heard immediately, and any councillor then speaking shall give way.

### **Points of Order**

16.3. A councillor 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 Standing Orders or the law. The councillor must identify the Standing Order or rule of law being breached before the councillor sets out their reasoning in which they consider has been broken. The ruling of the Mayor on a Point of Order will be final.

### **Personal Explanation**

16.4. A councillor may make a Personal Explanation at any time. A Personal Explanation may only relate to some material part of the earlier speech by the councillor (made at the meeting), which may appear to have been misunderstood in the present debate. The councillor raising the point shall specify what they said earlier and how they feel this has been misunderstood. The ruling of the Mayor on the admissibility of a Personal Explanation will be final.

### **Vote on whether Motion is to be referred to committee for consideration**

16.5. Once a motion as been put, the Mayor will invite councillors to decide how the motion on notice should be dealt with. The Mayor will ask for a vote without debate on whether the motion should be referred to an appropriate committee for consideration. The decision to refer to an appropriate committee will be on the basis of a simple majority. If the motion is referred to a committee, the committee in question must consider the motion.

### **Process for Motions to be debated by Council**

16.6. The order of speeches is set out in Standing Order 16.9 below. The motion shall be opened for debate with the Mayor requesting those wishing to speak to indicate their wish to do so by raising their hand.

16.7. Councillors shall generally be called to speak in the order in which the Mayor notes their wish to speak, except that the Mayor may alternately invite speakers from opposing sides of the debate, to seek to maintain a balanced debate.

### **Process of debate and length of speeches**

16.8. Speeches must be directed to the motion / amendment under discussion or to a Personal Explanation or Point of Order.

16.9. Councillors and officers at a meeting shall be addressed or referred to by their respective titles.

16.10. The order and times for speeches on motions will be as follows. A flow chart of the process is provided at Standing Order 17.12.

- i. Once the motion has been proposed and seconded, the proposer of the motion may speak to their motion and the seconder may speak or reserve their right to speak (the seconder must exercise that right before the reply of the Chair of the relevant committee).

- The proposer of the motion will have 7 minutes to set out their motion.
- The seconder shall have 5 minutes to second the motion.
- ii. In the event that an amendment is proposed, the motion must first be moved and seconded, only then can the proposer of an amendment put forward their amendment. The procedure for amendments to motions is set out in Standing Order 17.12 below.
- iii. All other councillors wishing to speak on the motion will have 3 minutes.
- iv. The relevant committee Chair has a right to reply to the motion and shall have 5 minutes to respond.
- v. The proposer shall have the right to respond and sum up and will have 5 minutes to do so.
- vi. Neither the Chair of the relevant committee nor the proposer of the original motion shall otherwise speak on the motion or an amendment to such, unless in accordance with Standing Orders. If they do so, they forfeit their right to reply to the debate on that motion or amendment.

16.11. When there is no-one else wishing to speak, or the Mayor determines that there has been sufficient discussion, or following agreement of a “closure motion”, the Mayor shall call on the Chair of the relevant committee followed by the proposer of the motion (if it is not a recommendation from a committee) to speak before the motion is put to the vote.

## **17. FCR 17 – Amendments to Motions**

17.1. Amendments to a motion must comply with the requirements of Standing Orders. They must either be submitted in writing in advance of the meeting or at the meeting. Amendments which have been submitted in advance will be called by the Mayor in such order as shall best facilitate their consideration, immediately following the speech of the proposer, but shall be moved and seconded before being debated.

17.2. An amendment to a motion may be moved and seconded during the debate but shall be provided in writing to the Mayor before being debated.

17.3. Only one amendment shall be debated at a time.

17.4. An amendment must be relevant to the motion. It must take the form of a proposal:

- i. To refer the matter back to committee.
- ii. To leave out words.
- iii. To leave out words and insert or add others.
- iv. To insert or add words.

17.5. The Mayor shall not accept an amendment(s) if:

- i. It is outside the scope of the original motion.
- ii. It is outside scope the meeting.
- iii. It is outside the council's powers.
- iv. It would contravene Standing Orders on challenging a previous decision.
- v. Has the same effect as voting against the motion.
- vi. Appears to be frivolous, vexatious, defamatory, or offensive.
- vii. Where an amendment has already been considered or is of a similar nature to one which has already been considered.
- viii. Where several amendments having already been considered, it is considered further amendments would have the effect of unreasonably prolonging debate on a matter.

#### **Mayor to rule whether amendments are in order**

- 17.6. The proposer of the amendment shall propose the amendment and call for a seconder. Once the seconder has seconded the request for an amendment, the Mayor will then rule whether such proposed amendment is in order.

#### **Mover of original motion to be asked if they accept the amendment**

- 17.7. If the proposed amendment is ruled in order, the mover of the original motion will be asked if they wish to accept the amendment. If the proposed amendment is ruled out of order, it will fall and the original or motion will be allowed to proceed to debate.
- 17.8. If the proposed amendment is accepted in full or in part by the mover of the original motion, there shall be no debate on the proposed amendment and the original motion shall be amended accordingly incorporating the accepted amendment(s).
- 17.9. In the event the mover of the original motion does not accept the proposed amendment, the amendment will be debated in accordance with Standing Orders.

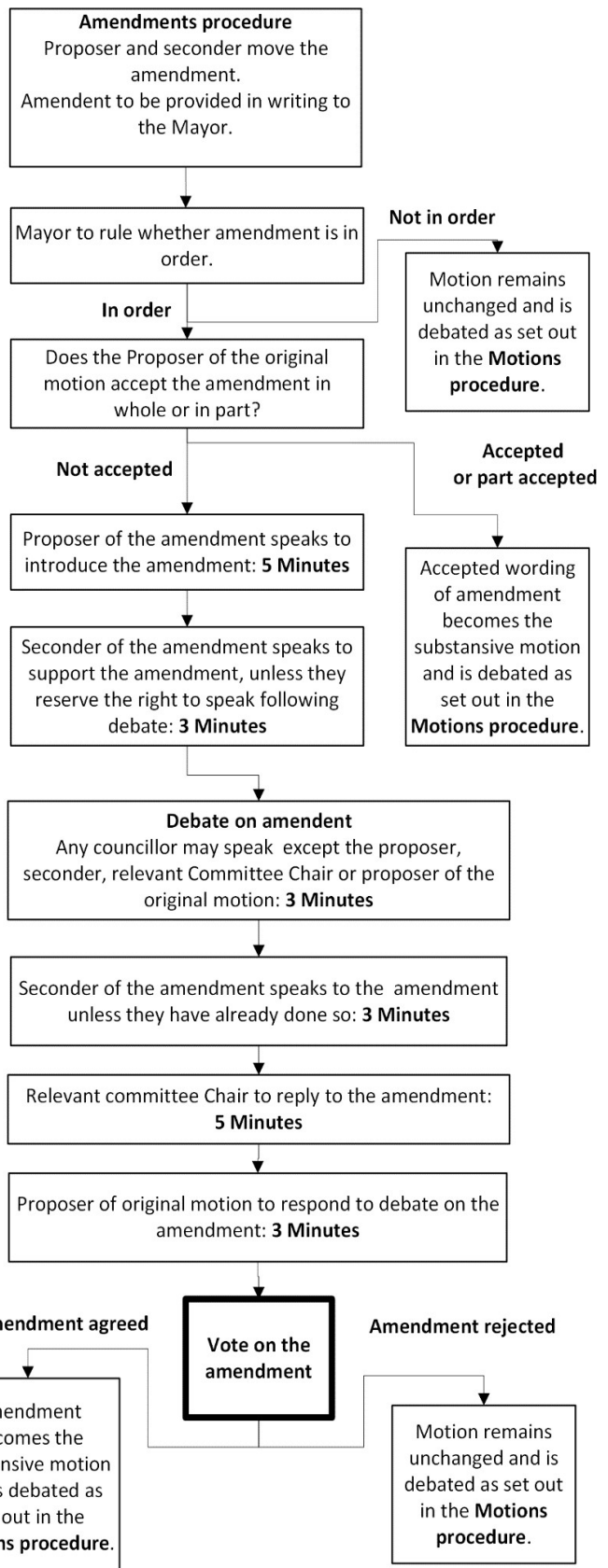
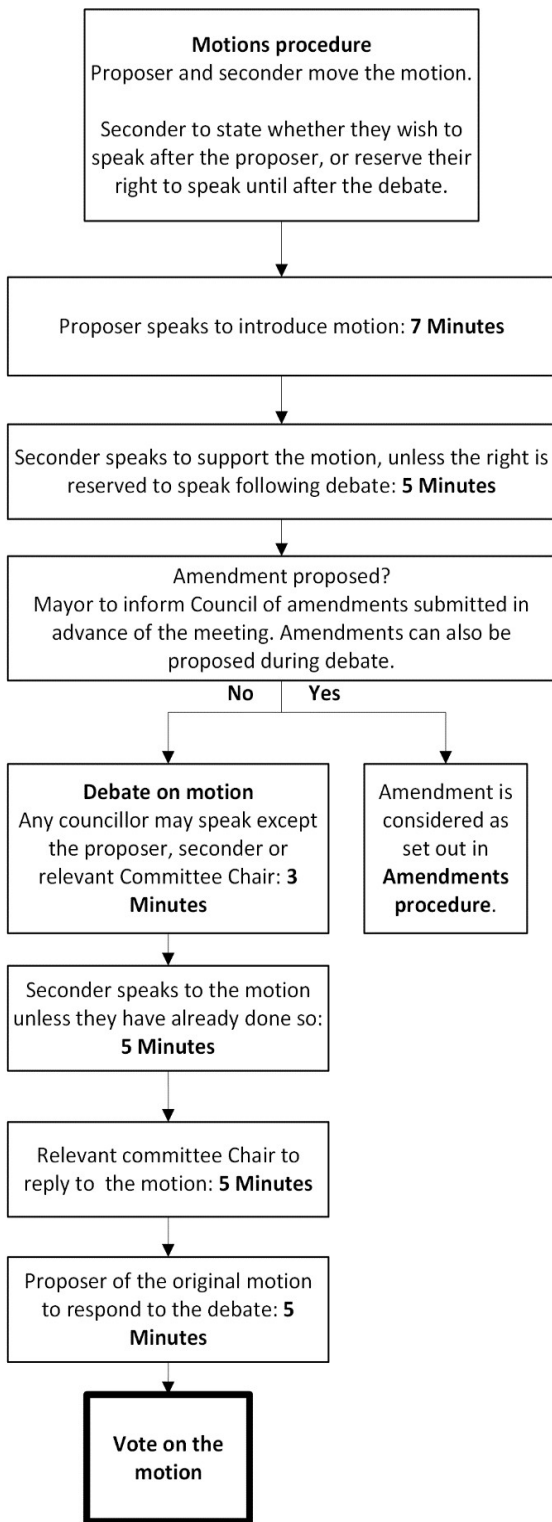
#### **Order and times of speeches on amendments**

- 17.10. The order and times for speeches on amendments ruled in order, and not agreed by the original motion proposer will be as follows. A flow chart of the process is provided at Standing Order 17.12.
- i. The proposer of the original motion, will have 7 minutes to set out their motion (if they have not already done so), and the seconder has either spoken or reserved their right.
  - ii. The proposer of the amendment may speak to their amendment and the seconder of the amendment may speak or reserve their right to speak (the seconder of the amendment must exercise that right before the reply of the Chair of the relevant committee).

- The proposer of the amendment will have 5 minutes to set out their amendment to the motion.
  - The seconder of the amendment shall have 3 minutes to speak to the amendment.
- iii. All other councillors wishing to speak on the amendment will have 3 minutes. The mover of the amendment has no right of reply to the debate on their proposed amendment.
  - iv. The relevant committee Chair has a right to reply to the amendment and shall have 5 minutes to respond.
  - v. The proposer of the original motion shall have the right to respond to the amendment and will have 3 minutes to do so.
  - vi. The amendment shall then be put to the vote.

17.11. If an amendment is carried (agreed), the motion as amended takes the place of the original motion and becomes the substantive motion to which any further amendments may be moved. The proposer of the original motion now becomes the proposer of the amended motion.

17.12. Motions Flowchart



**Note:**  
No Member may speak more than once on a motion or more than once on an amendment unless otherwise permitted by standing orders.



**18. FCR18 - General matters on a motion or amendment**

18.1. No councillor may speak more than once on a motion or on an amendment unless the operation of Standing Orders permit otherwise, namely:

- i. To speak once on any new amendments.
- ii. To move a further amendment if a previous amendment is not carried or the motion has been amended since they last spoke.
- iii. If their speech was on an amendment moved by another councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried).
- iv. In exercise of a right to reply as a Chair, or as the proposer.
- v. On a Point of Order.
- vi. By way of Personal Explanation.

18.2. Whilst a motion or amendment is under debate no other motion shall be moved except any one of the following:

- i. To remit a matter to committee for consideration / reconsideration.
- ii. To defer consideration of a matter to a later date.
- iii. To adjourn the meeting.
- iv. To proceed to next business.
- v. That the matter be now put.
- vi. That a councillor be not further heard.
- vii. To exclude the public.
- viii. to give the consent of the Council, where consent is required by these standing orders.

18.3. The maximum time for any speech shall not be exceeded except with the consent of the Mayor.

18.4. Councillors must not speak about anything except the subject under discussion, or to raise a Point of Order, point of Personal Explanation or to raise a motion or amendment in accordance with Standing Orders.

**19. FCR 19 - Closure motions**

19.1. At the conclusion of the speech of another councillor any councillor (except the proposer or seconder of the motion and, as the case may be, the amendment under debate), including the Mayor, may move one of the motions listed in Standing Orders 18.2 (i) to (v) above (a “closure motion”). When moving a closure motion the councillor must refer to these rules of procedure and state which motion they are moving and, once the Mayor has ruled that the motion is in order, will be given the opportunity to explain why it is being moved (max. 5 minutes).

- 19.2. On a motion to remit a matter to a committee, the Mayor shall give the Chair of the committee the right to reply to the motion (max. 5 minutes), after which the motion shall be put to the vote without debate or comment.
- 19.3. On a motion to defer consideration of a matter to a later date or to adjourn the meeting, if the Mayor considers that the matter requires further discussion but it cannot reasonably be discussed at the meeting in question, the motion to defer shall be put to the vote without debate.
- 19.4. On a motion to proceed to next business, unless the Mayor thinks that the council needs to reach a decision at that meeting on the matter then under consideration, the motion to proceed to next business shall be put to the vote, without comment or debate.
- 19.5. On a motion that the question be now put, unless the Mayor thinks that there has been insufficient debate of the matter, the Mayor shall first put to the vote the motion that the question be now put and, if it is passed, shall give the mover of the motion under consideration a right of reply (max. 3 minutes) before putting that motion to the vote.

## **20. General**

- 20.1. Unless otherwise stated in these rules of procedure or statute, where anything in these rules of procedure is required to be done in writing, this will include by email.
- 20.2. A rule, or part of a rule, may not be suspended or revoked if it is a statutory requirement or the operation of Standing Orders does not permit a suspension. It is not necessary for the exact words of the statute to be repeated in a rule. Any of the other rules may be suspended by the council by agreeing a motion to that effect provided that either:
  - i. A notice of motion has been given under Standing Orders including an intention to suspend the Council's rules of procedure.
  - ii. A motion has been moved under Standing Orders which can be moved without notice and at least two thirds of the whole number of councillors are present.
- 20.3. For the avoidance of doubt, if there is any conflict in the operation or application of Standing Orders, the matter will be determined by the Mayor whose decision on the matter will be final.
- 20.4. All references to the Mayor will include the Deputy Mayor as the context so requires or is deemed necessary, where such sits in the absence of the Mayor.

## Annex 2.4 - Protocol for Managing Councillor / Officer Relations

### 1 Introduction

- 1.1 This protocol is primarily based on the guidance and examples referred to in the Nolan Principles and LGA Councillor Workbook.<sup>1</sup>
- 1.2 The purpose of this protocol is to guide councillors and officers of the council in their relations with one another, in such a way as to ensure that a high standard of conduct is maintained and to ensure the business of the council is transacted in a transparent, effective and efficient manner.
- 1.3 The protocol is to a large extent a written statement of current practice and convention, and given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It offers guidance on some of the issues that most commonly arise and serves as a guide to dealing with other circumstances as they arise.
- 1.4 This protocol seeks to reflect the principles underlying the codes of conduct for councillors and officers. The shared objective of these codes is to maintain and enhance the integrity (real and perceived) of local government. Therefore the codes demand very high standards of personal conduct by all parties.
- 1.5 This protocol sits together with a number of other existing and evolving council procedures and there may be some overlap between this document and those other procedures and rules both within and outside the Constitution.
- 1.6 This protocol seeks to promote greater clarity and certainty as to working relationships between councillors and officers. If the protocol is followed, it should ensure that councillors receive objective and impartial advice and that officers are not subject to accusations of bias, and any undue influence from councillors.
- 1.7 Although some of the references in this protocol relate to regulatory matters, the document largely seeks to offer guidance on some of the issues that most commonly arise. All successful organisations need to be flexible to suit circumstances but, at the same time, it should be recognised that the guidance should, as far as is possible, be uniformly followed throughout the Council.
- 1.8 This protocol, where applicable, will also apply to co-opted members of committees.

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<sup>1</sup> HM Government (1995) The Seven Principles of Public Life. Online available: <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2> [last accessed 07/12/2022]. Local Government Association (2018) Councillor workbook: councillor/officer relations. Online available: <https://www.local.gov.uk/publications/councillor-workbook-councillorofficer-relations> [last accessed 07/12/2022].

1.9 If a councillor is unsure about any matter, [s/hethey](#) should contact the relevant Group Chair / Leader or the Monitoring Officer for appropriate advice and assistance. If an officer is unsure about any matter, [s/hethey](#) should contact the Monitoring Officer.

## **2 The Respective Roles of Elected Councillors and Officers**

2.1 Elected councillors are responsible for:

- Initiation and direction of council policy.
- Democratic accountability to the electorate for policies and for service delivery.
- Scrutiny of council services.
- Community leadership.
- Promotion of partnership working.

2.2 Officers are responsible for:

- Providing the professional advice that councillors must have before them when formulating policy and when taking decisions.
- Implementing councillors' decisions that have followed due process.
- Running the council's services and day-to-day administration.
- Taking managerial and operational decisions in accordance with the council's scheme of delegation.
- Providing information regarding council services and approved council policies.

## **3 Access to Officers**

3.1 If councillors wish to raise a request for service delivery (which is a matter covered by the customer relationship management system), then they should raise this in line with the council's standard processes, e.g. through the council's Contact Centre, rather than with individual officers.

3.2 If an issue or concern needs to be raised around the delivery of a service request or its failure, councillors should, in the first instance, contact the relevant Head of Service or a nominated officer.<sup>2</sup> Councillors must seek to avoid, as far as possible, entering an officer's work area and requiring immediate attention, unless they require assistance with urgent ICT or democratic services issues.

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<sup>2</sup> A list of contacts for Heads of Service and other nominated contact officers will be supplied to councillors.

3.3 If any councillor wishes to raise any matter which is either strategic in nature, or relates to a policy, they must do so in the first instance with any member of the Corporate Management Team.

3.4 A Councillor should not require an Officer to do something they are not authorised to do or which is against their professional judgement. A Councillor should also not require an Officer to do something which is outside their normal duties or working hours. Given that Officers are responsible to their line Managers and ultimately the Chief Executive, it follows that a Member cannot instruct an Officer in any matter (e.g. A Councillor should not approach officers directly to instruct that they work upon an issue that is not already included in an agreed workplan)

3.3.5 It is important to ensure timely response to correspondence, both councillors and officers should aim to respond to enquiries and requests they have received within one week from receipt of the enquiry / request.

3.4.3.6 If a councillor wishes to follow up any unanswered correspondence, they should email the relevant member of the Corporate Management Team to raise the matter.

3.5.3.7 Where a decision has been delegated to an officer in accordance with the Scheme of Delegation, whether or not in consultation with nominated councillors, it will be notified to all councillors through the council's processes. To assist councillors' understanding, officers should, when requested, explain to a councillor the guidelines they use when making a delegated authority decision.

#### **4 Access to Information and to Council Documents**

4.1 Councillors are entitled to such information as they may reasonably need to assist them in discharging their role as members of the council.<sup>3</sup> The legal right of councillors to inspect council documents is covered by:

- (i) Statutory right (Access to Information Act 1985, Freedom of Information Act 2000, Environmental Information Regulations 2004).
- (ii) Common law (on a need to know basis).

4.2 Officers must treat all councillors on an equal basis where there is an equal need to know. Officers must treat all such requests with care and respect and must not disclose any requests from one political group to another, or from one councillor to another.

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<sup>3</sup> This is covered in more detail in the [Constitution](#), Appendix 4 and Appendix 5, and the [Council Operating Framework](#), Annex 4.4.

- 4.3 The courts have ruled that the test of a councillor's need to know derives from the councillor's committee responsibilities, but this will not be exclusively the case. A councillor dealing with a Ward issue, casework or an issue raised by a Ward resident, may have a legitimate need to know, which will enable him / her to have access to the relevant council documents. The final decision on a councillor's 'need to know' will rest with the Chief Executive in consultation with the Monitoring Officer.
- 4.4 Councillors should be kept fully informed and consulted by officers on all relevant matters affecting their Ward. If a matter is urgent or sensitive, officers must ensure councillors are made aware as soon as reasonably possible and before the matter is made public.
- 4.5 It is important for councillors and officers to recognise that information disclosed to a councillor on a 'need to know' basis should not be disclosed to another councillor, unless there is an equal need to know, or the first councillor is notified that the information is being so disclosed.
- 4.6 Any correspondence to residents, from a councillor or officer, may need to be clarified with the relevant Head of Service to ensure accuracy.

## **5 Working Relationships**

- 5.1 Both councillors and officers are servants of the public and they are indispensable to one another. However, their responsibilities are distinct. Councillors are responsible to the electorate and officers are responsible to the council as a whole. The conduct of councillors and officers should be such as to instil mutual confidence and trust. This should be reflected in the behaviour and attitudes of each other, both publicly and privately.
- 5.2 To ensure that the business of the Council is carried out effectively, councillors and officers should endeavour to create a cordial and collaborative working relationship with each other.
- 5.3 Councillors should recognise that, as the Head of Paid Service, the Chief Executive has key statutory responsibilities. These include setting the manner in which the council's different functions are discharged, the organisation of the council's staffing structure, as well as the appointment and proper management of the council's staff. It is therefore important to ensure the Chief Executive can carry out these functions both independently and free from any pressure.
- 5.4 Councillors can expect the following from officers:
- (i) A commitment to the Council as a whole and not to any political group.
  - (ii) An effective and efficient performance of their duties.
  - (iii) To work to their Service Delivery Plans.

- (iv) A working partnership.
- (v) An understanding and appreciation of respective roles and pressures.
- (vi) Timely responses to enquires and complaints.
- (vii) Impartial professional advice.
- (viii) Awareness of and sensitivity to the political environment.
- (ix) Courtesy and appropriate confidentiality.
  
- (x) Not using their relationship with councillors to advance their personal interests or influence decisions improperly.
- (xi) That the relationship will never be so close, or appear to be so close, as to bring into question either parties ability to deal impartially with other councillors, officers, individuals or organisations.
- (xii) Compliance with the Officers' Code of Conduct.
- (xiii) That officers will not go beyond the bounds of their specific or delegated authority.
- (xiv) That officers named in a report to the council (or any part of its formal decision-making structure) will always be fully responsible for the contents of it.
- (xiv)(xv) To inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work or role

5.5 Officers can expect the following from councillors:

- (i) A working partnership.
- (ii) An understanding and appreciation of respective roles and pressures.
- (iii) Courtesy and appropriate confidentiality.
- (iv) Not to be put under undue pressure and to respect personal and professional boundaries.
- (v) The efficient and agreed use of council resources.
- (vi) A respect for professional advice.
- (vii) Not to use their relationship with officers to advance their personal interests to influence decisions improperly.
- (viii) That the relationship will never be so close, or appear to be so close, as to bring into question either parties ability to deal impartially with other councillors, officers, individuals or organisations.
- (ix) Compliance with the Members' Code of Conduct (see [Constitution](#),

Appendix 1).

- (x) To treat officers with respect at all times including during meetings whether public or otherwise, which includes not raising matters relating to the conduct or capabilities of an officer.
  - (xi) To inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work or role
- 5.6 Nothing in this protocol shall prevent a councillor or officer expressing a relevant concern under the council's Whistleblowing Policy.
- 5.7 Any officer who is personally connected to a councillor must notify the Monitoring Officer in writing. This would include a family, business or social connection.
- 5.8 Both councillors and officers should be guarded as close personal familiarity, or the perception of such, can damage the relationship or undermine trust, as might a family or business connection. Close personal familiarity between individual councillors and officers may also cause embarrassment to other councillors and officers. Particular care should be taken around of the use of social media and the perception it could give in terms of close personal familiarity.
- 5.9 Councillors should not expect officers to attend their homes to conduct or discuss council business. Nor should officers expect to attend a councillor's home. Generally, for most officers, councillors telephone contact with them should be during normal working hours.
- 5.10 Challenge in a constructive and non-confrontational way is important in ensuring that policies and service performance are meeting the council's strategic objectives. Nothing in this protocol is therefore intended to stop councillors holding officers to account for decisions made under delegated powers. Nor is the protocol intended to inhibit constructive criticism delivered with courtesy and officers should not feel their employment is at risk as a result of such intervention.
- 5.11 Under no circumstances should a councillor or an officer blind copy any of their exchanges to any external third party, councillor, or officer. If it is important to raise an issue, then, in the case of councillors, such matter must be raised with the Chief Executive in the first instance, and in the case of officers, with their Head of Service.
- 5.12 As a rule, councillors and officers must not 'copy to' or forward their correspondence to any other councillor, officers or external third parties. Nor should such correspondence be disclosed to any third parties be they members of the public, stakeholders, or partners. There may be service reasons where this may be necessary, therefore before doing so, either the original author



must have specifically requested it, or has expressly consented to their correspondence being sent on to a named person. If there is any concern as to what steps should be taken, in the case of officers, advice should be sought from their line manager; councillors should seek advice from the Monitoring Officer. The council's policies on data protection and information governance should also be given due consideration.

5.13 Councillors and officers must take great care when including new parties to on-going existing correspondence. Particular care must be taken to avoid forwarding on email chains from officers or councillors, as this could amount to breach of personal data or the unintended release of confidential or sensitive information.

5.14 Councillors should never forward officer correspondence on to any resident or other third party. If there is a need to forward contact details for an officer, councillors must only forward details of the relevant officer or Head of Service, after the officer has given their consent.

## 6 When Things Go Wrong

6.1 Where a councillor considers they have not been treated with proper respect or courtesy by an officer, or is otherwise concerned with the performance of an officer, the councillor should first discuss the issue with the relevant Group Chair or Leader. If the councillor wishes to pursue the matter as a formal ~~or informal~~ complaint, then they will need to complete and submit a complaint form to the Chief Executive (which will be available from the Chief Executive). The complaint will remain confidential and cannot be discussed with the relevant Group Chair or Leader. As the Head of Paid Service, the Chief Executive has responsibility for staff and will take such action as is appropriate.

6.2 If an officer considers that ~~he or she~~they ~~has~~ves not been treated with proper respect or courtesy by a councillor, ~~he or she~~they should raise the matter with the ~~Monitoring Officer~~Chief Executive in the knowledge that the matter will be handled with sensitivity and in confidence. In such circumstances, the ~~Monitoring Officer~~Chief Executive will take such action as is appropriate.

6.3 This protocol does not affect the rights of officers and councillors to raise the matters via the council's usual procedures in cases where such processes apply.

## 7 Officer Advice to Party Groups

7.1 It must be recognised by all officers and councillors that in discharging their duties and responsibilities, officers serve the council as a whole and not any political group, combination of groups or any individual councillor.

7.2 The assistance provided by officers can take many forms ranging from a briefing meeting with a committee Chair or other committee members prior to a meeting, to a presentation, to a full political group meeting. It is an important

principle that such assistance is available to all political groups and individual councillors. All officers must, in their dealings with political groups and individual councillors, maintain political neutrality and treat them in a fair and even-handed manner.

- 7.3 Officers must not do any work that is designed to promote one political group within the council, rather than the whole council.
- 7.4 If councillors require the attendance of an officer at a political group meeting, they must contact the Chief Executive. Any officer invited to attend meetings organised by any political group should contact the Chief Executive as soon as possible. It is a matter for the Chief Executive to decide whether it is appropriate for an officer to attend, and if so, who that officer should be.
- 7.5 The officer's role at any such meeting is limited to providing factual information only, and they may be called upon to provide a professional opinion. Officers must not provide a personal opinion. It is important when attending such a meeting, for an officer to be advised of who else is at the meeting to avoid any confidential material or information sensitive to the council, being inadvertently released to third parties.
- 7.6 Officers must respect the confidentiality of any party group discussions at which they are present. When information is disclosed to an officer during discussions with a party group, that information should not be passed on to other groups. However, councillors should be aware that this would not prevent officers from disclosing such information to other officers of the council in so far as that is necessary to perform their duties.

## **8 Members and the Media**

- 8.1 Contact with the media on issues related to council business is handled through the Communications Team who provide support, advice and training to councillors and officers.
- 8.2 Any councillor who wishes to approach the media to speak on behalf of the council, on any item involving or affecting the council, should first consult the relevant Committee Chair or Chief Executive as appropriate.
- 8.3 If a councillor wishes to approach, or is approached by the media, for a comment or action involving council business, the councillor should make it clear to the media that any comments that are made are those of the councillor personally and do not reflect the views or policies of the council as a whole.
- 8.4 Requests for comments or opinion on council policy or political matters should be referred to the appropriate committee Chair.
- 8.5 Councils are prohibited from publishing any material that appears to be designed to affect support for any political group.

## **9 Conclusion**

- 9.1 Mutual understanding, respect and openness on these sensitive issues are the greatest safeguard of the integrity of the council, its councillors, and officers.
- 9.2 This protocol can be revised or amended at any time in accordance with Constitutional requirements.

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## **Annex 3.3 – Monitoring Officer Protocol**

### **1. Purpose of Document**

- 1.1. The purpose of this protocol is to explain the role of the Monitoring Officer (“MO”) and provide a guide for officers and councillors as to how it will be exercised in Epsom and Ewell Borough Council.

### **2. The Monitoring Officer and Deputy Monitoring Officer**

- 2.1. The council has a MO under Section 5 of the Local Government and Housing Act 1989.
- 2.2. The MO has designated the Principal Solicitor as the Deputy MO under Section 5 (7) of the 1989 Act. The Deputy MO can perform all the MO’s duties and deputise for the MO when required.
- 2.3. Both the MO’s and Deputy MO’s duties are required to be performed by them personally.

### **3. Statutory Duties and Functions of the Monitoring Officer**

- 3.1. These arise under the Local Government and Housing Act 1989, the Local Government Act 2000 (as amended by the Local Government Act 2003 and the Local Government and Public Involvement in Health Act 2007) and relevant regulations.
- 3.2. In preparing a Section 5 report, the MO must consult, as far as practicable the council’s Head of Paid Service (the Chief Executive) and the Section 151 Officer (Chief Finance Officer).
- 3.3. As soon as the MO has prepared the report, they must send it to every councillor.
- 3.4. The Full Council must consider the report within 21 days of the MO having sent it to councillors.
- 3.5. Once the MO has sent out the report, the council cannot implement any proposal or decision to which it relates until the end of the first business day after the Full Council have considered it.

### **4. Duties of the Council towards the Monitoring Officer**

- 4.1. Under Section 5 (1)(b) of the Local Government and Housing Act 1989, the council must provide the MO with such staff, accommodation and other resources as are, in their opinion, sufficient to allow their duties to be performed.

## 5. Functions of the Monitoring Officer

- 5.1. The MO will ensure that an up-to date version of the Constitution is maintained and will ensure that it is available to councillors, officers and the public.
- 5.2. The MO will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards & Constitution Committee.
- 5.3. The MO will conduct or arrange for investigations to be conducted into allegations against councillors made to the council and arrange, if necessary, for the Standards & Constitution Committee to receive reports or recommendations in respect of them.
- 5.4. ~~Whilst the Chief Executive~~ ~~The MO~~ is the proper officer for access to information, The MO ~~and~~ will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.
- 5.5. The MO will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all councillors and officers in their respective roles.
- 5.6. The MO will support the overview and scrutiny work of the Audit and Scrutiny Committee as set out in the [Council Operating Framework](#) (Annex 4.6).
- 5.7. The MO will ensure that the operation of the Constitution is monitored and reviewed to ensure that the aims and principles of the Constitution are given full effect and will report to the Full Council on this at least once every year.
- 5.8. The MO must establish and maintain the register of the councillors' and co-opted members' interests including disclosable pecuniary interest which must be available for inspection on the council's website.
- 5.9. The MO shall keep the Common Seal of the council in some safe place secured by a lock and the keys.
- 5.10. The MO may attest documents that the Common Seal has been affixed to.
- 5.11. The MO or any other officer authorised by them may authenticate any document that may be required for legal proceedings.
- 5.12. The MO may grant dispensations to councillors where the council would not be able to discharge business unless a dispensation was granted (Section 33 Localism Act 2011).
- 5.13. The MO may instruct external legal support as and when necessary, in connection with a matter concerning the council.
- 5.14. The MO may settle legal proceedings in the best interests of the council.

5.15. The MO shall act as the ‘proper officer’ to receive complaints that councillors have breached the Councillors’ Code of Conduct.

## **6. Operative Provisions of the Protocol**

6.1. The MO will receive:

- i. Advance notice of Strategic Management Team meetings, copies of all agendas and reports.
- ii. Advance notice of meetings whether formal or informal, between the Chief Executive / Directors / Heads of Service and Group Leaders / committee Chairs where any procedural, vires or other constitutional issues are likely to arise.
- iii. Advance notice of all emerging issues of concern, including legality, probity, vires and constitutional issues.
- iv. Copies of all reports to councillors.

6.2. The MO has the right:

- i. To attend and speak at any Strategic Management Team and Corporate Management Team meetings.
- ii. To call for any relevant information, whether confidential or otherwise, and to give that information as appropriate to any body, including the Standards and Constitution Committee, Internal or External Audit, or the Local Government and Social Care Ombudsman.
- iii. To withhold the identity of a complainant who has made an allegation of misconduct against a councillor, in consultation with the Chair of the Standards and Constitution Committee and the Independent Person. Such anonymity will last until preparation for the hearing of the complaint.
- iv. To withhold from a councillor, in consultation with the Chair of the Standards and Constitution Committee and the Independent Person the fact that a complaint has been received against them if it is decided that notification may prejudice any subsequent investigation.
- v. To make non-substantive changes / updates to the Constitution, that is those that do not change a process or meaning of a section / paragraph, in consultation with the Chair of Standards and Constitution Committee. The MO can also make any changes agreed by the Full Council.

6.3. The MO will:

- i. Ensure the Head of Paid Service and the Section 151 Officer have up-to-date information regarding emerging issues.
- ii. Set up arrangements within the authority to ensure that any allegation, made in writing, that a councillor has or may have failed to comply with the authority's codes of conduct, is referred to the MO immediately upon receipt by the council.
- iii. Maintain a register of such allegations to ensure that the council can comply with its obligations under any legislation.
- iv. Refer all substantive allegations of member misconduct to the Standards Hearing Sub-Committee and refer all other matters for action as appropriate.
- v. Act as Chair of the Statutory Officer Group and through this Group will meet the Head of Paid Service and Section 151 Officer regularly (and in any event not less than quarterly) to consider and recommend action in connection with current governance issues and other matter of concern regarding probity.
- vi. In carrying out any investigation (whether under regulations or otherwise), have unqualified access to any information held by the council and any employee who can assist in the discharge of their functions.
- vii. Have control of a budget sufficient to enable them to seek Counsel's opinion on any matter concerning the MO's functions.
- viii. Be responsible for preparing a training programme for councillors on the ethical framework.
- ix. Report to the Standards and Constitution Committee from time to time on the Constitution and any changes.
- x. Appoint a deputy who will be kept briefed on emerging issues. The nominated deputy will have all the rights and powers of the MO when discharging the role of MO.

6.4. The MO may:

- 6.4.1. In consultation with the Mayor and the Chair of the Standards and Constitution Committee, defer the making of a formal report under Section 5 of the LGHA 1989 where another investigative body is involved.
- 6.4.2. Make a report to the council from time to time as necessary on the staff, accommodation and resources required to discharge the MO's functions.



## **Annex 4.2 – Protocol for Members of the Public Speaking at Committees**

### **1. Questions and statements from the public**

- 1.1. At ordinary meetings of the council's committees and sub-committees, up to 30 minutes will be set aside for questions and statements:
  - i. On matters within the terms of reference of the body in question.
  - ii. From any member of the public who lives, works, attends an educational establishment, or who owns or leases land in the Borough.
- 1.2. This protocol is not applicable to advisory panels, regulatory committees, Epsom Walton Downs Conservators and Epsom Walton Downs Consultative Committee.
- 1.3. The topic of the question or statement may not relate to:
  - i. Specific planning or licensing cases, see the [Council Operating Framework](#), Annex 4.8 and Annex 4.7 respectively, for guidance on these.
  - ii. The personal affairs of an individual.
  - iii. A matter which is exempt from disclosure or confidential under the Local Government Act 1972.
- 1.4. Questions and statements which in the view of the Chair are defamatory, offensive, vexatious or frivolous will not be accepted.
- 1.5. Each question or statement will be limited to 3 minutes in length.
- 1.6. This protocol does not cover questions and statements from the public for meetings of the Planning Committee or licensing sub-committees, which are not permitted. The protocols for public speaking at those committees are set out in the [Framework](#) (Licensing, Annex 4.7 and Planning Annex 4.8). For the avoidance of doubt, questions and statements from the public relating to planning or licensing committees matters can only be made at those specific committees with the consent of the Chair of that committee.

### **2. Procedure for Questions**

- 2.1. The chair of the committee shall indicate the item on the agenda at which questions may be put by individual members of the public. Questions are welcomed from the members of the public and must satisfy the conditions below.

2.2. All questions must consist of one question only they cannot consist of multiple parts. This does not preclude a member of the public from asking another question on a separate topic, time permitting.

2.3. A person who wishes to ask a question must submit their question in writing (either in hard copy or by email) to the Democratic Services Manager at:

Hard Copy – Democratic Services, Town Hall, The Parade, Epsom, Surrey, KT18 5BY

Email – [democraticservices@epsom-ewell.gov.uk](mailto:democraticservices@epsom-ewell.gov.uk)

The written question must arrive by noon on the third working day before the day of the meeting.

2.3.2.4. The member of the public submitting a question must set out:

- i. the wording of the question they wish to ask.
- ii. an address, email address or telephone number at which they can be contacted before and after the meeting.
- iii. The details of where they live, work, attend an educational establishment, own or lease land in the Borough.

2.4.2.5. Following receipt of a written question, the Democratic Services Manager will ensure that the member of the public asking the question is contacted and told whether their request complies with the conditions above. If contact details are not readily identifiable or have not been supplied, the question will not be accepted even if in all other respects it is valid.

2.5.2.6. At the committee meeting, questions must be addressed to the Chair of the relevant committee / sub-committee. The Chair will invite the questioner to put the question at the meeting.

2.6.2.7. The Chair may decline to answer a question, may give an answer orally at the meeting or may provide a written reply. If available, the questioner will be supplied with a written answer before the meeting.

2.7.2.8. Questions regarding items on the agenda for the meeting may not receive an answer, as the matter will not yet have been considered.

2.8.2.9. At the meeting the Chair will ask the questioner if the response answers their concern or if they wish to ask one supplementary question. If a supplementary question is asked, it must arise from the reply given. The Chair may decline to answer a supplementary question or invite other councillors or officers of the relevant body to contribute to a response.

2.9.2.10. If a member of the public wishes to ask more than one question, their second and final question shall be taken after all other individuals who wish to ask a question have been given the opportunity to do so.

### 3. Procedure for statements

3.1. As an alternative to submitting a written question, a member of the public may address a meeting of a committee or sub-committee for up to three minutes.

3.2. A person wishing to make a statement at a meeting must provide written notice (via hard copy or email). The written statement must arrive by noon one working day before the day of the meeting, and it must set out:

- i. The wording of the statement they wish to **make**.
- ii. An address, email address or telephone number at which they can be contacted before and after the meeting.
- ~~iii. The details of at least one of the following: where they live, work, attend an educational establishment, own or lease land in the Borough, including a summary of the subject matter, to the Democratic Services Manager. The written notice must arrive by noon one working day before the day of the meeting.~~

3.2.3.3. Speakers may only make one statement and may not engage in further debate once their statements have been made.

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## Annex 4.7 - Code of Conduct and Procedure in Licensing Matters

### 1 Code of conduct

#### 1.1 Introduction

- 1.1.1 The Council's Licensing & Planning Policy Committee discharges the Council's functions related to Licensing matters through two Licensing Sub-Committees – the Licensing (Hearings) Sub-Committee and the Licensing (General) Sub-Committee.
- 1.1.2 The purpose of this Code is to assist Councillors in the discharge of the Council's licensing function and to guide applicants and other interested parties. The Code relates to all Councillors (not just to Members of the Licensing Sub-committees) and also to Council Officers where appropriate.

#### 1.2 Status of the code

- 1.2.1 This Code is complementary to, and should be read in conjunction with, the Members Code of Conduct ([Constitution](#), Appendix 1). Councillors should apply both the general Members Code of Conduct and this Code in dealing with licensing matters. The purpose of this Code is to:
- (i) Help Councillors to:
    - Maintain the Council's high standards of conduct;
    - Make formal licensing decisions that are safe from, and will avoid placing the Council at, risk of legal challenge;
    - Avoid putting any individual Member of a Licensing Sub-Committee at risk of a complaint.
  - (ii) Set the standards of conduct that the Council requires Members and Officers of the Council to follow when dealing with and determining applications and other licensing matters, including consideration of policy and legislation;
  - (iii) Guide the way in which Councillors and Officers of the Council deal with all licensing matters, supporting their respective roles, and protecting their reputation;
  - (iv) Set the standard of conduct which other parties to the process can expect from Councillors and Officers when dealing with all licensing matters;
  - (v) Support Councillors' effective engagement in all aspects of the licensing process and, in this context, to fulfil their democratic role;

- (vi) Ensure transparency and fairness in the way in which decisions are taken and that there are no grounds for suggesting that a decision has in any way been biased, partial or not made on the correct considerations.

A breach of this Code may adversely affect the reputation of the Council.

- 1.2.2 This Code sets out clear ~~lines of engagement~~guidelines for communications and expectations for each of the parties involved including members of the public and applicants/licence holders.

### 1.3 Guiding principles for Licensing Sub-Committee Members

- 1.3.1 Where there is an allegation of bias or predetermination against a Member, by section 25 of the Localism Act 2011, ~~he or she is~~they are not automatically taken as having a closed mind simply by having previously indicated the view they took. Notwithstanding this statutory protection members are advised to adopt a cautious approach.
- 1.3.2 To avoid any appearance of bias, Members of the Licensing Sub-Committee should avoid expressing personal opinions prior to a Licensing Sub-Committee hearing. To do so could be taken as indicating that the Member has made up his/her mind before hearing all the evidence and that their decision may not be based upon the relevant licensing considerations, nor the Licensing Authority's Licensing Policy.
- 1.3.3 Members of the Licensing Sub-Committee must not take nor declare a view on the merits of an application nor organise support or opposition in advance of the hearing and must keep an open mind until after they have considered all the guidance and arguments presented.
- 1.3.4 Members of the Licensing Sub-Committee should not form or show bias against or in favour of any particular person, company or group, or any particular site or locality, nor give the impression that they have done so.
- 1.3.5 A Member of the Licensing Sub-Committee may serve on another body that considered a non-licensing application in relation to the same premises (e.g., determination of a planning application). In such cases it is especially important not only to keep an open mind as to the actual licensing considerations, but to demonstrate that this is being done. Members should make it clear that any opinion they formed at the other body was for the limited purposes of that discussion or matter only, and that they preserve an open mind on the licensing considerations.

- 1.3.51.3.6 ~~If A-a~~ Member ~~may sometimes~~ feels that ~~all~~ the task of preserving freedom from appearance of bias is becoming too complicated, or that ~~he or she~~ they runs too great a risk of becoming identified with one side of the argument ~~no matter what~~ regardless of ~~any~~ safeguards ~~they take~~ taken, ~~the~~ ~~– In these circumstances the~~ only ~~wise~~ appropriate course is to withdraw from the discussion at the other body or from sitting on the Licensing Sub-Committee.
- 1.3.61.3.7 To avoid conflicts of interest, Councillors should not normally sit on the Licensing Sub-Committee if a premises on which a matter is being considered at the meeting is: (i) a premises on which a matter is being considered at the meeting is situated within the Ward they represent, or if (ii) they live within the vicinity of a premises on which a matter is being considered at the meeting of said premises. As a Member of the Licensing Sub-Committee, such a Councillor may find themselves to be in a difficult position if it is a controversial application that has generated opposition. Councillors in such a situation should therefore not publicly support or oppose a particular outcome unless they are prepared to make their own valid representation – such a Councillor would then become ineligible to sit as a Member of the Sub-Committee concerned with determining that application.
- 1.3.71.3.8 In exceptional circumstance only (e.g., if no other suitably trained Councillors are available) Ward Members may sit on a Licensing Sub-Committee hearing an application with respect to premises within their Ward if they are able to avoid any suggestion of bias. They should at the outset disclose that the application is one which refers to persons/premises in this Ward but that they have not taken any interest in the formulation of the application, have not been lobbied by any person in respect of it, and have kept an open mind until after they have considered all the evidence and arguments presented.
- 1.3.81.3.9 Decisions of the Licensing Sub-Committee should be based on relevant licensing considerations and must not be taken in accordance with a political party direction given at a previous party group meeting or otherwise.
- 1.3.91.3.10 A Councillor who is not a Member of the Licensing Sub-Committee determining the application may represent one of the other parties or applicant provided they do so strictly in their representative capacity as a Member of the Council. They may not do so in a professional capacity (for example as solicitor or consultant), as a personal friend, or in any other circumstances which will give rise to a disclosable pecuniary or non-pecuniary interest under the Member Code of Conduct. If a Councillor has represented a party, he or she may not sit as a Member on the Licensing Sub-Committee determining the matter in question.

## 1.4 Natural justice

1.4.1 Members of the Licensing Sub-Committee must comply with the rules of natural justice, ensuring that parties have an opportunity to be heard, whilst acting honestly and impartially. When making its determinations, the following principles must be considered:

- (i) Free from the appearance of bias – Members must make an objective and impartial determination of the issues based on the evidence and should not make, or give the appearance of making, a biased decision. Bias may include pre-judged ideas based on his/her a Member's own prejudices or political affiliations;
- (ii) Fair hearing – For a hearing to be 'fair' a number of conditions must be satisfied including the right for the individual to know the opposing case; generally, the right to call witnesses; the ability to question witnesses; the right to legal representation; and generally, the right to be given reasons for any decision made.

## 1.5 Members' interests and licensing applications

1.5.1 Members must comply with the Members Code of Conduct with respect to Members' Interests.

1.5.2 Members must always declare any disclosable pecuniary interest, or non-pecuniary interest on an item of business.

1.5.3 It is accepted that Members of the Licensing Sub-Committee may in their personal lives have visited a licensed premises on which a matter is being considered at the meeting, and that this alone should not give rise to an assumption of interest. However, Members should declare where this amounts to a disclosable pecuniary interest, or a non-pecuniary interest.

1.5.4 The declaration of an interest should be made in advance of the hearing (to the Licensing Officer, Democratic Services Officer, and/or Legal Advisor), at the beginning of the hearing, or at the first possible opportunity.

1.5.5 Where a Member has a disclosable pecuniary or non-pecuniary interest that could be reasonably be regarded as so significant as to prejudice the Member's judgement of the public interest, it will be 'prejudicial'.

1.5.6 Where a Member has such a 'prejudicial' interest they must not sit as part of the Licensing Sub-Committee. If in doubt of his/her position, the Member must consult the Council's Monitoring Officer or a member of the Council's legal staff.



## 1.6 Gifts and hospitality

- 1.6.1 Councillors and Officers should observe extreme caution in respect of any personal offer of a gift, favour or hospitality from someone who has or is likely to submit a licensing application to the Council. - Further guidance on this matter is given in the Council's Code of Conduct for Members. Even gifts of nominal value should be refused.
- 1.6.2 All offers or receipt of gifts or hospitality must be reported to the Monitoring Officer on the prescribed form, and they will be recorded in the register of gifts and hospitality.

## 1.7 Applications submitted by the Local Authority

- 1.7.1 Where the Local Authority applies for a premises licence for open spaces or for buildings that it owns, or where there is a variation application or review in respect of such open spaces or buildings, the Licensing Sub-Committee must hear and determine this application/review in the same manner as other applications/reviews. The Licensing Sub-Committee must give no regard to the interests of the Council itself, aside from receiving relevant representations on this issue.
- 1.7.2 Councillors who have participated in the authority's decision to apply for the licence, or who express a view in respect of hearing the application, should not also sit as Members of the Licensing Sub-Committee hearing the application.
- 1.7.3 Members of the Licensing Sub-Committee must be aware of any potential appearance of bias.

## 1.8 Lobbying of Licensing Sub-Committee Members

- 1.8.1 If a Member who sits on the Licensing Sub-Committee is approached by persons wishing to lobby him/her as regards the licence application then that Member must politely explain that they cannot discuss the matter and refer the lobbyist to the Licensing Officer or his/her/their Ward Councillor who can explain the process of decision making.
- 1.8.2 Any written representations received by a Member of the Licensing Sub-Committee should be passed to the Licensing Officer. Any such approach received in time should also be reported at the hearing at which the application is being determined.
- 1.8.3 Requests for procedural advice with regard to licensing applications should be referred to Council Officers for advice and information.

## 1.9 Lobbying by non-Committee Members

- 1.9.1 Other Councillors must not lobby Members who sit on the Licensing Sub-Committee, directly or indirectly, in writing or otherwise, in respect of items to be decided by the Licensing Sub-Committee with a view to influencing their decision. Any representation by other Councillors, on behalf of another person, should be sent to the Licensing Officer for inclusion in their report.

## 1.10 Councillor representation or representing of other parties

- 1.10.1 A Councillor has the same right as a member of the public to make representations during the consultation period. Councillors may make representations:

- (i) In their capacity as a private individual;
- (ii) As a Ward Councillor;
- (iii) On behalf of local residents or organisations.

- 1.10.2 A Councillor may attend the meeting in order to speak to their representations or may be asked to speak on behalf of someone else who has made a representation. It is for individual Councillors to decide whether to agree to such requests, having considered the application, the relevant licensing considerations, and the general interests of their Ward.

- 1.10.3 Councillors should remember that to be effective in representing the views of interested parties, and not mislead them about the licensing decision process, they should be fair in their representations and not **just simply** act as an advocate for one point of view without considering the broader licensing context or the licensing objectives. They should advise that local opposition to, or support for, a licence application is not in itself a ground for refusing or granting the licence and that consideration must be given to the relevant licensing considerations. Where opposition to/support for a licensing application is not founded upon relevant licensing considerations they should avoid giving the impression that such representations can be given weight and be careful about promoting that opposition/support both before and at the licensing hearing. To do so may raise false expectations of a decision which cannot be justified when it comes to objective formal consideration, potentially resulting in disillusionment and confusion over both the decision process and the role of that Member.

## 1.11 Site visits

- 1.11.1 Site visits are generally unnecessary and can risk putting the Members of the Licensing Sub-Committee and the Licensing Authority at risk of accusations of bias.

- 1.11.2 In special circumstances, the Licensing Officer may make a recommendation that the Licensing Sub-Committee visits the premises prior to the hearing. In such cases, the Licensing Officer must provide full written reasons justifying the visit and this must be provided to the applicant and any other parties making representations.
- 1.11.3 Members of the Licensing Sub-Committee may adjourn the hearing in special circumstances, part way through hearing any application, to undertake a site visit. The Chair of the Licensing Sub-Committee must give oral reasons justifying the need for the site visit. The judgement assessment as to whether special justification exists for an adjournment should take into account in general terms the delay, inconvenience, and expense of carrying out a visit to all involved, including the applicant.
- 1.11.4 The following procedures should be observed where a site visit by the Licensing Sub-Committee is deemed necessary:
- (i) The visit should be undertaken as a group visit attended by all Members of the Licensing Sub-Committee and its purpose should be confined to that indicated by the Licensing Officer or the Chair;
  - (ii) The visit should be attended by a Licensing Officer who may be asked factual questions by the Members;
  - (iii) No indication of the likely outcome of the application should be given on the visit;
  - (iv) No representation from the applicant or from those making representations should be heard or accepted on the visit;
  - (v) The Licensing Sub-Committee should keep together as a group and not engage individually with any parties;
  - (vi) The visit may be attended by a Democratic Services Officer to record details of those attending the visit, questions asked, and answers given.

## 1.12 Conduct at hearings

- 1.12.1 Members of the Licensing Sub-Committee should not discuss the application directly with the applicant, other persons, or the responsible authority either immediately prior to the hearing, during the hearing, or after the hearing, other than publicly through the Chair.
- 1.12.2 Licensing Sub-Committee Members' questioning of speakers is to clarify arguments and views. Care ~~and care~~ should be taken that questioning does not ~~to~~ express a view at that stage, nor ~~to~~ intimidate speakers.
- 1.12.3 Members should comply with the Rules of Procedure as set out at paragraph 2.14 below.

### 1.13 Councillor and Officer relations

1.13.1 Good administration is dependent upon a successful relationship between Councillors and Officers, which can only be based upon mutual trust and understanding of each other's roles and responsibilities. This relationship, and the trust which underpins it, should not be abused or compromised.

~~1.13.1~~1.13.2 Accordingly, Councillors should not attempt in any way to influence the terms of the Officers' report or recommendation on any licensing matter.- Equally, Officers should give firm independent advice.

### 1.14 Training

1.14.1 To sit on the Licensing Sub-Committee, a Member must have undertaken the appropriate training.

1.14.2 Two annual training sessions will be held, one for each of the Licensing Sub-Committees. These sessions provide an overview of the licensing function of the Council and of the role Councillors play in the licensing process, with respect to each Sub-Committee's responsibilities. ~~This~~ These training sessions will usually be held once the membership of the Licensing and Planning Policy Committee and the Licensing Panel have been confirmed at Annual Council. Each training session should be attended by all Councillors eligible to sit on the Licensing Sub-Committee to which the training session relates.

1.14.3 If a Councillor has not attended the most recent annual training session they will be ineligible to sit as part of that Sub-Committee until they have received further training.

1.14.4 Further training sessions will be provided as necessary on new Council and Government policy and legislation, or other licensing issues that are requested by Councillors or Officers. All Councillors eligible to sit on the Licensing Sub-Committee(s) to which the training relates must attend such sessions, ~~and~~ and if they do not attend, they will be ineligible to sit as part of the relevant Sub-Committee until they have received further training.

## 2 Rules of Procedure

### 2.1 General information

2.1.1 The Licensing (Hearings) Sub-Committee rules of procedure are subject to the provisions of the Licensing Act 2003 (Hearings) Regulations 2005 and The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007. Where appropriate the provisions of the regulations have been incorporated into these rules.

2.1.2 The Licensing (General) Sub-Committee is not subject to specific regulations on how they should be conducted. Where appropriate though these Sub-Committees will be arranged and conducted (in terms of notification requirements, rights of parties to attend hearings etc,) the same as Licensing Act 2003 hearings. For Licensing (General) Sub-Committees considering matters relating to individual it may the case, for example, that there are no representations, or interest parties, in which case reference to such matters can be disregarded, whilst retaining the general principles and procedures for those hearings.

## 2.2 Quorum and composition

- 2.2.1 The Membership of the Licensing Sub-Committees is set out in their Terms of Reference ([Constitution](#), Appendix 3).
- 2.2.2 The three Members appointed to the Sub-Committee shall constitute a quorum. No business shall be transacted at any meeting if a quorum be not present. Any matters that are unable to be considered at the meeting due to a meeting becoming inquorate will need to be adjourned to a future meeting of the Sub-Committee.
- 2.2.3 Provisions for the appointment of Substitutes ([Constitution](#), Appendix 5) do not apply to meetings of the Licensing Sub-Committees.
- 2.2.4 The Chair of the Licensing Sub-Committee shall be elected at the meeting by a simple majority vote, as the first order of business.

## 2.3 Notice of hearing

- 2.3.1 The licensing authority shall give to the parties a notice stating the date and time and place at which the hearing is to be held (the 'notice of hearing').
- 2.3.2 The notice of hearing shall be accompanied by information regarding the following:
- (i) Their rights of attendance, assistance and representation, as at paragraph 2.4;
  - (ii) The consequences if a party does not attend or is not represented at the hearing;
  - (iii) The procedure to be followed at the hearing;
  - (iv) Any particular points on which the licensing authority considers that it will want clarification at the hearing from a party;
  - (v) Whether the hearing is likely to be public or private

## 2.4 Right of attendance, assistance and representation

- 2.4.1 Anonymous representations will not be considered by the Authority.

- 2.4.2 Subject to paragraphs 2.4.1 and 2.4.3 and in accordance with any relevant regulations, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.
- 2.4.3 Upon receipt of the notice of hearing and within the period of time specified in that notice, each party shall give to the licensing authority a notice stating:
- (i) Whether she/he/they intends to attend or be represented at the hearing;
  - (ii) Whether he/she/they considers a hearing unnecessary.
- 2.4.4 In a case where a party wishes any other person (other than the person she/he/they intends to represent them at the hearing) to appear at the hearing, the notice referred to in paragraph 2.3 above shall contain a request for permission for such other person to attend the hearing, accompanied by the details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.
- 2.4.5 A party who wishes to withdraw any representations they have made may do so by giving notice to the Council's Licensing Section no later than 24 hours before the day or the first day on which the hearing is to be held; or orally at the hearing.

## 2.5 Right to dispense with hearing if all parties agree

- 2.5.1 The licensing authority may dispense with holding a Licensing (Hearings) Sub-Committee if all persons required by the relevant Act to agree that such a hearing is unnecessary, other than the licensing authority itself, have done so by giving notice to the authority that they consider a hearing to be unnecessary.
- 2.5.2 Where all the persons required by the relevant Act to agree that a hearing is unnecessary have done so in accordance with paragraph 2.5.1, the licensing authority, if it agrees that a hearing is unnecessary, shall forthwith give notice to the parties that the hearing has been dispensed with.
- 2.5.3 Licensing (General) Sub-Committees will generally follow the principles above, however hearings that do not include interested parties or objectors may be dispensed with by agreement of the Chair of the Sub-Committee following a request of the Licensing Officer, in consultation with Legal Officers if appropriate.

## 2.6 Hearing in relation to business premises to be in public

- 2.6.1 Subject to paragraph 2.6.2 below, the hearing shall take place in public.

- 2.6.2 The Licensing Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.
- 2.6.3 For the purposes of paragraph 2.6.2, a party and any person assisting or representing a party may be treated as a member of the public.

## 2.7 Hearings in relation to Sex Establishment Venues

- 2.7.1 Where relevant objection has been received to a Sex Establishment Venues the licensing authority will offer an oral hearing to objectors. -As the Licensing authority cannot without the consent of the person making the objection reveal their name or address to the applicant, it will be allowed for objectors to speak anonymously at the hearing if they wish.

## 2.8 Hearing in relation to individual matters to be private

- 2.8.1 At Licensing Sub-Committees hearings relating to an individual licence holder, the officer's report and applicant's/licence holder's submissions will normally include confidential or exempt information. In these cases, the substantive hearing will usually be held as a Part II meeting, with the press and ~~M~~members of the public excluded.
- 2.8.2 The Sub-Committee may decide to hold the hearing in public with the consent of the applicant and the other individuals attending and participating.

## 2.9 Disruptive behaviour from parties

- 2.9.1 The Sub-Committee may require any person attending the hearing who is, in their reasonable opinion, behaving in a disruptive manner to leave the hearing and may:
- (a) Refuse to permit that person to return;
  - (b) Permit him/her/them to return only on such conditions as the Sub-Committee may specify.

But such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave.

## 2.10 Officer report

- 2.10.1 The Licensing Officer shall prepare a report for consideration by the Sub-Committee including:
- (i) A brief summary of the application;
  - (ii) A brief summary of representations by responsible authorities and Interested Parties; including a summary of any judgement that



resulted in representations being determined as not relevant, frivolous or vexatious.

(iii) Relevant aspects of the Council's Licensing Policy and National Guidance; and

(iv) Other information as appropriate and as included in the Council's standard report format.

2.10.2 The Licensing Officer's report shall be sent to the relevant parties in advance of the hearing.

### **2.11 Failure of parties to attend the hearing**

2.11.1 If a party has informed the Authority that they do not intend to attend or be represented at a hearing, the hearing may proceed in their absence.

2.11.2 If a party who has not so indicated fails to attend or be represented at a hearing the Authority may:

(i) Where it considers it to be necessary in the public interest, adjourn the hearing to a specified date.

(ii) Hold the hearing in the party's absence.

2.11.3 Where the Authority holds a hearing in the absence of a party, the Licensing Sub-Committee shall consider at the hearing the application, representations or notice made by that party.

### **2.12 Adjournments**

2.12.1 Subject to the provisions of the regulations, the Sub-Committee may:

(i) Adjourn the hearing to a specified date.

(ii) Arrange for a hearing to be held on specified additional dates where it considers it necessary for its consideration of any representations or notice made by a party.

2.12.2 Where the Sub-Committee adjourns the hearing to a specified date it shall forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

2.12.3 Similarly, when the Sub-Committee arranges for the hearing to be held on a specified additional date it shall forthwith notify the parties of the additional date on which and time and place at which the hearing is to be held.



## 2.13 Late supporting evidence

- 2.13.1 Representations can be supported with any other relevant material and can be provided at any time up to 24 hours before the hearing. If material is provided at the hearing, it must be with the consent of all the parties present at the hearing, to avoid a party being ambushed with material they might not be able to respond to.
- 2.13.2 It is ~~up to~~ the Sub-Committee's discretion whether they will consent to late evidence. In deciding whether to allow the late evidence they should consider;
- (i) length, content, complexity and impact of the document
  - (ii) explanation for any delay
  - (iii) prejudice to other parties
  - (iv) whether an adjournment (even to later the same day) would assist the parties to assess the material.

## 2.14 Procedure at hearing

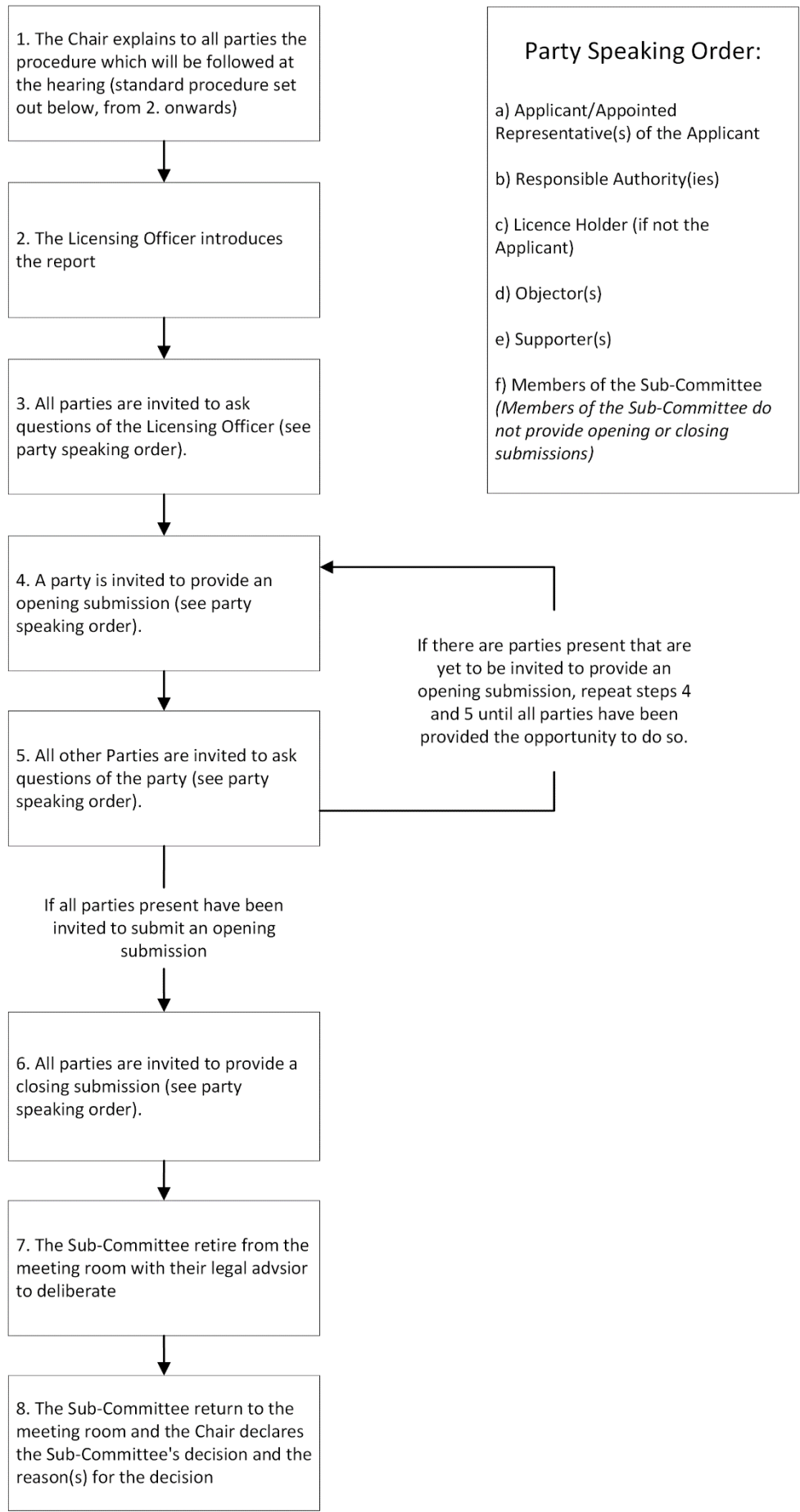
- 2.14.1 A standard hearing procedure is set out at 2.14.17 below – however, the procedure should not be considered totally inflexible, and the Chair may choose to vary the order of proceedings if this would facilitate proper consideration of the matter.
- 2.14.2 The Chair shall, at the beginning of the hearing, introduce the Members of the Sub-Committee, invite the parties to identify themselves and then explain to the parties the procedure that the Sub-Committee intends to follow.
- 2.14.3 The Chair shall ask a representative of the licensing authority to introduce the report and outline the matter before the Sub-Committee.
- 2.14.4 All parties shall be entitled to:
- (i) In response to a point upon which the licensing authority has given notice that it will want clarification under paragraph 3.2(d), give further information in support of their application, representations, or notice (as applicable)
  - (ii) If given permission by the Sub-Committee, question any other party, but cross-examination shall not normally be permitted
  - (iii) Address the Sub-Committee
- 2.14.5 The parties will normally be invited to address the Sub-Committee in the following order:
- (i) Applicant

- (ii) Responsible Authorities
- (iii) Other Persons who have made representations.

Where the applicant is not the licence holder (e.g. review applications), the licence holder will normally be invited to speak last.

- 2.14.6 After each party has addressed the Sub-Committee, the other parties present will be asked by the Chair if they have any questions of clarification before the next party is invited to address the Sub-Committee.
- 2.14.7 Members of the Sub-Committee may ask any question of any party or other person appearing at the hearing at any time.
- 2.14.8 Where there is more than one representation raising the same or similar grounds, the Sub-Committee will request that only one party address them on behalf of the parties who have made the representations in question.
- 2.14.9 In considering any representations or notice made by a party, the Sub-Committee may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.
- 2.14.10 The Sub-Committee shall disregard any information given or evidence produced by a party or any person to whom permission is given to appear at the hearing by the licensing authority which is not relevant to:
  - (i) Their application, representations or notice (as applicable) or in the case of another person, the application, representations or notice of the party requesting their appearance, and
  - (ii) The relevant licensing considerations.
- 2.14.11 Hearsay evidence may be admitted before the Sub-Committee, but consideration will always be given to the weight, if any, to be attached to such evidence, depending upon the circumstances in which it arises.
- 2.14.12 The parties shall be entitled to make closing submissions. The closing submissions of any applicant (or in cases of a review application, the licence holder) shall follow the closing submissions of any other person or responsible authority.
- 2.14.13 The Sub-Committee may place a time limit on the exercise of the rights set out in paragraphs 8.5 and 8.12 above. All parties shall be allowed an equal maximum period of time.
- 2.14.14 The Sub-Committee may, after hearing the representations of the parties, withdraw from the room to make their deliberations or alternatively, may ask all parties and the public to leave the room.

- 2.14.15 No Officers other than the Legal Advisor and the Democratic Services Officer are permitted to withdraw from the meeting room with the Sub-Committee. Should the Sub-Committee wish to ask any further questions of the Licensing Officer, or any other party at the hearing, the Sub-Committee must return to the meeting room, and the Chair resume the hearing, in order for the Sub-Committee to ask its questions.
- 2.14.16 Upon the determination of its decision, the Sub-Committee shall return to the meeting room and the Chair shall resume the hearing. The Chair shall relay the decision of the Sub-Committee, along with the reasons for its decision, orally to all parties at the hearing. The Sub-Committee's decision and reasons for its decision shall also be recorded in writing by the Chair.
- 2.14.17 A chart showing the Standard hearing procedure is provided below;



## 2.15 Role of the Licensing Officer

- 2.15.1 Prior to the Sub-Committee meeting, the Licensing Officer should make a judgement ~~around as to~~ whether representations are frivolous or vexatious. Any decisions in this regard will be summarised in the report.
- 2.15.2 When dealing with unusually complex cases, Members of the Sub-Committee may request a briefing before the start of the hearing which will be delivered by the Licensing Officer. This must be solely confined to procedural matters. ~~The~~ The merits of any material or the application before the Sub-Committee must not be discussed.
- 2.15.3 At the start of the Sub-Committee, the Licensing Officer will outline the background to the case, with each party then asked to confirm that this summary is correct.
- 2.15.4 During the Sub-Committee the licensing officer may clarify factual matters as and when they arise and advise on licensing matter arising not covered in the report.
- 2.15.5 After having heard the representations and prior to retiring to make its decision, the Licensing Sub-Committee may, if it wishes, seek the guidance of the Licensing Officer regarding possible suitable conditions in respect of any particular application.
- 2.15.6 The Licensing Officer must not accompany Members of the Sub-Committee when they retire to make their deliberations.
- 2.15.7 Licensing authorities can also make representations about applications or call for reviews. Where it is necessary for a Licensing Officer to act in the role of a responsible authority intending to make representations there should be a separation between this Officer and the licensing authority Officer processing the application, they should be treated in the same way as other parties to the hearing.

## 2.16 Role of the Legal Advisor

- 2.16.1 The legal adviser's role is to guide and provide advice to the Sub-Committee, whether or not it is requested. Advice may include, for example:
- (i) Questions of law – interpreting any legislation
  - (ii) Matters of practice/procedure
  - (iii) Admissibility of evidence
  - (iv) Range of options available to the Sub-Committee
  - (v) Any relevant higher court decisions
  - (vi) Drafting and formulation of conditions

(vii) What the Section 182 guidance says

- 2.16.2 The advisor may not take part in findings of fact or decision making, and Members should not invite the advisor's views on the same.
- 2.16.3 Legal advisors have an important but limited role to assist in the formulation and recording of reasons, but not the underlying decision.
- 2.16.4 The legal advisor should advise the Sub-Committee on the law and, where necessary, steer the Sub-Committee procedurally to ensure that matters progress fairly and impartially.
- 2.16.5 Any legal advice given that was not raised during the hearing should be repeated to all parties before a decision is announced so that any contrary arguments to be taken into account can be made.
- 2.16.6 The Sub-Committee may seek advice or clarification of any procedural, technical or legal matters from the legal advisor at any time during the course of the hearing.
- 2.16.7 The legal advisor will accompany Members of the Sub-Committee when they retire to make their deliberations.
- 2.16.8 Any advice given by the legal advisor to Members of the Sub-Committee will be reflected in the Notification of Decision.

#### 2.17 **Role of the Democratic Services Officer**

- 2.17.1 The role of the Democratic Services Officer is to facilitate efficient administration of the meeting.
- 2.17.2 The Democratic Services officer present is responsible for recording attendance at the meeting.
- 2.17.3 The Democratic Services Officer shall record the meeting's proceedings and the decisions of the Sub-Committee.
- 2.17.4 Democratic Services shall keep a record of the decisions taken.

## Annex 5.1 - Financial Regulations

### 1 About Financial Regulations

#### The role and function of Financial Regulations

- 1.1 Financial Regulations are a set of rules (standing orders) that govern the financial affairs of the Council. They are approved by the Council and apply to all members and officers of the Council and anyone acting on its behalf must comply with the Regulations.
- 1.2 The Regulations identify the financial responsibilities of the full Council, Committees and Panels, the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, Directors, Heads of Service and Budget Managers.
- 1.3 Any reference to the Chief Finance Officer should be interpreted as meaning the Council's S151 Officer. The Chief Finance Officer is the Council's S151 Officer.
- 1.4 Where decisions have been delegated or devolved to other responsible officers, references to the relevant Director or Head of Service in the Regulations should be read as referring to those officers.
- 1.5 All members and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control and for ensuring that the use of these resources is lawful, correctly authorised, provides value for money and achieves best value. Compliance with Financial Regulations will help discharge this responsibility.

#### What do Financial Regulations cover?

- 1.6 The Financial Regulations set out the financial management policies of the Council.
- 1.7 Financial Regulations are not detailed procedure notes. The Finance Rule Book sets out in more detail some of the procedures to which staff who manage budgets or carry out financial transactions need to adhere, although it will not necessarily cover all eventualities. Where appropriate Managers should maintain their own operating procedure notes to fit in with the needs of their own service.
- 1.8 All members and officers **must** comply with Financial Regulations.
- 1.9 Although the Financial Regulations and the Finance Rule Book cover all major financial systems and processes, the Council has other procedures which set out how Council funds are managed. Regard must be had to the requirements of the Council's Procurement and Capital Strategies as well as Contract Standing Orders.

### **What if something is not clear?**

- 1.10 The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Regulations that Members, Officers and others acting on behalf of the Council are required to follow.
- 1.11 If you are not clear what a regulation means to your work area, or how to apply it, please ask for guidance. You can ask the Chief Finance Officer, Head of Finance, Chief Accountant, Head of Policy, Performance and Governance, or your service accountant.

### **What will happen if I don't comply?**

- 1.12 If it is minor non-compliance then you will be asked to correct the situation as appropriate. A serious breach will be reported to the Chief Finance Officer and Strategic Management Team, and may require to be reported to Audit and Scrutiny Committee dependent upon the nature of the breach. The rules in the Council's Disciplinary Procedures may also be engaged.

## **FINANCIAL MANAGEMENT**

### **2 Financial Management – General**

#### **Status of Financial Regulations**

- 2.1 It is the responsibility of each Committee, Director, Head of Service and Budget Manager to ensure compliance with all the requirements of these Regulations.
- 2.2 The Regulations also apply to services carried out under agency arrangements for any other Authority or organisation except where it has been agreed in advance by the Chief Finance Officer, to comply with another organisation's regulations. Agents acting for the Council will be expected to comply with these Regulations unless otherwise agreed by the Chief Finance Officer.
- 2.3 These Regulations also apply to arrangements with any other Authority, partnership or organisation except where it is otherwise specifically agreed by the Chief Finance Officer.
- 2.4 The Financial Regulations do not override any statutory provisions.
- 2.5 The Regulations must be read in conjunction with current schemes of delegation to Committees and Officers.

#### **Responsibilities of the Chief Finance Officer**

- 2.6 The Chief Finance Officer is the Council's S151 Officer and has statutory duties in relation to the financial administration and stewardship of the authority. This statutory responsibility cannot be overridden.
- 2.7 The statutory duties arise from:
  - Section 151 of the Local Government Act 1972



- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounts and Audit Regulations 2015

2.8 The Chief Finance Officer is responsible for:

- the proper administration of the authority's financial affairs
- setting and monitoring compliance with financial management standards
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- providing financial information
- preparing the revenue budget and capital programme
- treasury management
- determining the Council Tax Base
- determining the Business Rates Base

2.9 Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the full Council and the external auditor if the Authority or one of its Officers:

- (a) Has made or is about to make a decision which involves or would involve the Council incurring unlawful expenditure.
- (b) Has taken, or is about to take, a course of action which if pursued to its conclusion would be unlawful and likely to cause a loss or deficiency; or
- (c) Is about to enter an item of account, which is unlawful.

2.10 Section 114 of the 1988 Act also requires the Chief Finance Officer to nominate a properly qualified member of staff to deputise should ~~he or~~ she be unable to perform the duties under section 114 personally.

2.11 The Chief Finance Officer is responsible for maintaining a regular review of the Financial Regulations and submitting any additions or changes necessary to the full Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, serious breaches of the Financial Regulations to the Audit and Scrutiny Committee.

### **Responsibilities of Directors and Heads of Service**

2.12 Directors and Heads of Service are responsible for ensuring that Committee members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.

- 2.13 It is the responsibility of Directors and Heads of Service to consult with the Chief Finance Officer and seek approval on any matter liable to affect the authority's finances materially, before any commitments are incurred.
- 2.14 Directors and Heads of Service are responsible for ensuring that all staff in their division are aware of the existence and content of the Council's Financial Regulations and other internal regulatory documents and that they comply with them. A copy of the document will be available on the Council's Internet and intranet site.
- 2.15 Directors and Heads of Service shall control expenditure and income, monitor performance, and take the necessary action to avoid exceeding any budget. The Chief Finance Officer shall provide appropriate financial information and the means by which budgets may be monitored effectively.
- 2.16 Where expenditure or income involves a contractual agreement with a third party, the Directors and Heads of Service must follow procedures laid down in the Contracts Standing Orders.
- 2.17 Directors and Heads of Service shall establish sound arrangements for the planning, appraisal, authorisation and control of their operations to ensure that economy, efficiency and effectiveness are achieved.
- 2.18 Directors and Heads of Service may [in accordance with para. 2.1\(v\) of Appendix 2](#), nominate staff – called Budget Managers - to manage budgets on their behalf. This delegation does not in any way reduce the overall responsibilities of Directors and Heads of Service. Budget Managers shall carry out their responsibilities in line with these Regulations and the Finance Rule Book.

### **Authorised Signatories**

- 2.19 Directors and Heads of Service shall determine who is authorised to sign official documents on their behalf, and shall provide the Chief Finance Officer with up-to-date lists of specimen signatures of authorised Officers. The Chief Finance Officer will refuse to accept any document submitted where the authorising signature does not correspond to that notified.

## **3 Accounting Arrangements**

### **Accounting policies**

- 3.1 The Chief Finance Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

### **Accounting records and procedures**

- 3.2 The Chief Finance Officer is responsible for determining the accounting procedures and records for the Council. The Chief Finance Officer will ensure that the accounting systems are maintained and that the accounts of the Council and supporting records are kept up to date.

### **The Annual Statement of Accounts**

- 3.3 The Chief Finance Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC).
- 3.4 The Audit and Scrutiny Committee is responsible for approving the Annual Statement of Accounts in accordance with the requirements of the Accounts and Audit Regulations 2015.

### **Allocation of Accounting Duties**

- 3.5 The following principles shall be observed in the allocation of accounting duties:
- (a) The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them;
  - (b) Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

### **Subsidies and Grants Receivable**

- 3.6 The Chief Finance Officer will take such action and establish procedures to ensure that the Council's subsidy and grant entitlement are maximised.

## **FINANCIAL PLANNING**

### **4 Financial Planning - General**

#### **Policy Framework**

- 4.1 The full Council is responsible for agreeing the Council's policy framework and budget. In terms of financial planning, the key elements are:-
- The Corporate Plan and Key Priorities
  - The Four Year Financial Plan
  - The Annual Budget
  - The Capital Strategy and Capital Programme.
  - The Treasury Management Strategy
- 4.2 The Council is responsible for approving the policy framework and budget which will be proposed by the Strategy and Resources Committee.
- 4.3 The Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework.

## Reserves

- 4.4 It is the responsibility of the Chief Finance Officer to advise the Strategy and Resources Committee and/or the full Council on prudent levels of reserves for the Authority.
- 4.5 The Chief Finance Officer is responsible for ensuring that reserves are used only for the purposes for which they were earmarked.
- 4.6 The Chief Finance Officer may authorise the use of reserves for their intended purpose up to the following limits:

Value	Level of Responsibility
Up to £20,000	Chief Finance Officer
From £20,000 to £50,000	Chief Finance Officer in consultation with the relevant Committee Chair
Above £50,000	Committee approval required

- 4.7 The above limits do not apply to reserves held for accounting purposes. Reserves held for accounting purposes are used at the discretion of the Chief Finance Officer and include:
- Property Income Equalisation Reserve
  - Business Rates Equalisation Reserve
  - VAT Reserve
  - Insurance Reserve

## Financial Plan

- 4.8 The Chief Finance Officer shall maintain a forward Financial Plan. The Financial Plan will show the financial implications of changes in Council policy, legislation, service levels, activity and other factors for at least three years ahead. The Chief Finance Officer will review financial projections annually. The plan will show, in summary, the estimated impact of future spending plans on the General Fund.
- 4.9 In order that the information requirements of the Financial Plan and Medium Term Financial Strategy are satisfied, reports to Committees with significant financial implications shall show the full year effect of the proposals and the implications for at least the next three financial years.
- 4.10 Budget Targets including updates of the financial projections should be presented to the Strategy and Resources Committee by the Chief Finance Officer no later than October each year.

## **Review and Notification to the Chief Finance Officer**

- 4.11 Directors, Heads of Service and Budget Managers must regularly review the financial implications of changes in policy and other factors, and must notify the Chief Finance Officer promptly of the impact on current and future budgets.

## **5 Revenue Budget Preparation**

### **Budget format**

- 5.1 The general format of the budget will be approved by the Strategy and Resources Committee on the advice of the Chief Finance Officer.
- 5.2 The detailed form of the revenue estimates shall be determined by the Chief Finance Officer and must be consistent with the general directions of the Strategy and Resources Committee.

### **Budget preparation**

- 5.3 Directors and Heads of Service shall prepare estimates of income and expenditure reflecting agreed key service priorities in consultation with the Chief Finance Officer in accordance with guidelines issued by the Strategy and Resources Committee.
- 5.4 The Chief Finance Officer shall report on the estimates to the appropriate policy committees. They shall in turn report the estimates to the Council with such recommendations as are deemed necessary.
- 5.5 The Chief Finance Officer shall advise the Strategy and Resources Committee and other committees as necessary on budget matters.
- 5.6 The Directors and Heads of Service shall supply the Chief Finance Officer with such information as is necessary to support the estimates.

### **Budget Timetable**

- 5.7 The Chief Finance Officer will prepare a budget timetable each year. All budget submissions shall be made in accordance with the timetable.

## **6 Revenue Budget Control**

### **Budget monitoring and control**

- 6.1 It is the responsibility of each Director and Head of Service to manage and direct resources to achieve the objectives of the budget. This involves the monitoring of expenditure and income and the regular review of performance. Where budgets are delegated to Budget Managers they are charged with the same responsibility.
- 6.2 Once approved by the Council, the revenue budget will give authority for expenditure to be incurred in the appropriate year unless:
- (a) It would cause the appropriate budget head to be overspent,

- (b) It is a long-term financing agreement that will have implications for government capital controls in which case the Chief Finance Officer must be consulted.
  - (c) It is a contingency sum requiring the approval of the relevant committee before expenditure is incurred.
- 6.3 The Chief Finance Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively.
- 6.4 The Chief Finance Officer must report to Audit and Scrutiny Committee on the overall budget position on a regular basis.

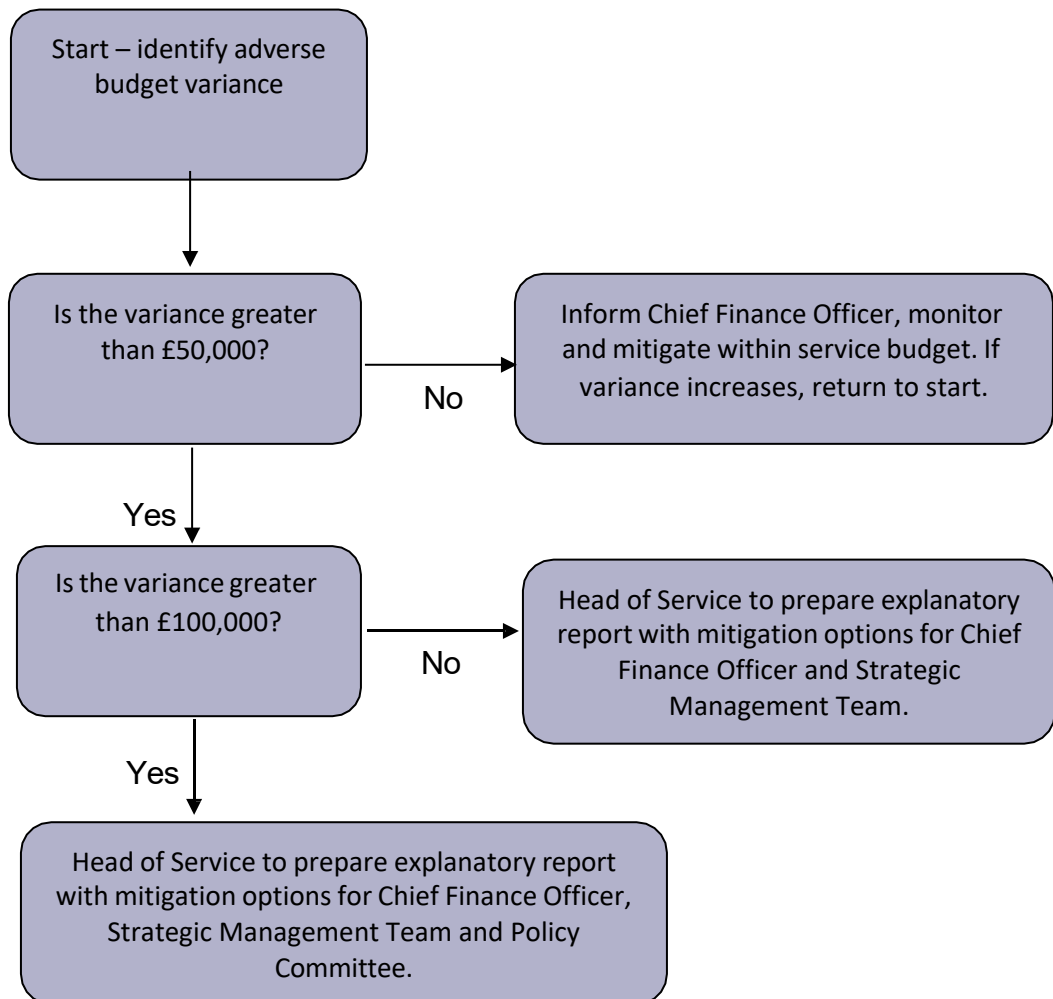
### **New Services and Extension of Service Provision**

- 6.5 Any proposal to incur expenditure relating to the adoption of a new policy or extension of an existing policy not already sanctioned by the Council, must be accompanied by a report to the relevant policy committee with the financial implications agreed in advance with the Chief Finance Officer.
- 6.6 Proposals which commit future budgets to a level of expenditure greater than that provided for in the current year shall be reported to the relevant policy committee and the Strategy and Resources Committee and clearly show the total level of future annual commitment.
- 6.7 However, should the additional expenditure be beneath the threshold of £50,000 and a funding option can be identified, the proposal can be submitted just to the relevant policy committee for approval (and not to S&R Committee as well), provided approval is also obtained from the Chair of Strategy & Resources Committee and the Chief Finance Officer.
- 6.8 The procedure at paragraph 6.7 can be used on multiple occasions, but with a cumulative cap of £50,000 per policy committee in a financial year.

### **Supplementary Estimates**

- 6.9 Policy Committees are required to manage services within the overall revenue and capital budget allocations. The Council will exceptionally consider supplementary estimates for significant added expenditure that cannot be managed within the total agreed budget.
- 6.10 Where it is apparent that the budget for a service may be exceeded (or there will be a shortfall of income) by a material sum (see flowchart at 6.119), the Head of Service must prepare a written report setting out the reasons and proposing how the shortfall may be met, and submit it to the Chief Finance Officer. The Chief Finance Officer will advise on the action to be taken, which may include proposals for a report to Strategic Management Team and/or Policy Committee, virement or exceptionally a request for supplementary estimate.
- 6.11 The following flowchart sets out the recommended course of action and thresholds for adverse budget variances. Exceptions to the recommended

action should only be permitted with the agreement of the Chief Finance Officer.



6.12 Expenditure may be authorised in an emergency by the Chief Finance Officer with the agreement of the Chair of the relevant Committee and shall be reported to the next meeting of that Committee. This procedure will only be adopted if the emergency does not provide sufficient time to follow the procedure set-out at 6.2~~85~~.

### Virement of revenue budgets

6.13 A revenue virement is the transfer of resources from one revenue budget to another (i.e. a transfer from existing approved budgets). Should the request require a new use of reserves, please refer to section 4 of the Financial Regulations

6.14 ~~Approvals for virements within the same Committee are delegated to: The delegated approvals for virements within the same Committee are—~~



Value	Level of Responsibility Role
Up to £20,000	Budget Managers
From £20,000 to £50,000	Relevant Director or Head(s) of Service, and Chief Finance Officer
Above £50,000	Committee approval required

- 6.15 Virements between committees above £50,000 require the approval of Strategy and Resources Committee and the other relevant Committee(s). Virements between committees below £50,000 can be approved by Committee Chairs and the Chair of Strategy and Resources Committee.
- 6.16 Virements between revenue and capital budgets will not be permitted due to the different sources of funding.
- 6.17 All virements must be completed on approved virement documentation.
- 6.18 Virements out of cost centre will be monitored in aggregate, based on the limits specified above, during the financial year by the relevant service accountant.
- 6.19 Virements between revenue income and expenditure will be permitted only where the additional expenditure will generate ~~the~~ income and with the approval of the Chief Finance Officer.
- 6.20 Virements in or out of the salary budget must be within control totals maintained by the Chief Finance Officer.
- 6.21 The virement of training budgets for any purpose other than training requires an express recommendation of the Head of HR and OD.
- 6.22 Virements must not be made in or out of the Epsom and Walton Downs Conservators and Nonsuch Park Joint Management Committee accounts.
- 6.23 Virements that provide new resources should only be approved if it can be demonstrated that the resources are affordable in the context of the whole Council's financial position.
- 6.24 Where the proposed virement involves a significant issue of principle, or a significant proportion of the original budget, the approval of the Strategy and Resources Committee is required.
- 6.25 The above virement arrangements do not apply to adjustments to budgets that arise due to accounting or technical reasons such as correcting errors, budget restructuring due to internal reorganisation, capital and pension charges, and changes to grant regimes, provided these do not impact on the net budget of the Council.
- 6.26 Where an approved budget is a contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that its use is in



accordance with the purposes for which it has been established and has been approved by the Chief Finance Officer.

### **Treatment of year-end balances**

- 6.27 Underspends on the revenue account will not normally be carried forward. Exceptionally such requests to allow the fulfilment of commitments will require the approval of the Strategy and Resources Committee.

### **Emergency or Urgent Action Requests**

- 6.28 Where a decision cannot wait until the next Council or relevant policy committee meeting, then under the Constitution the Chief Executive and the Directors are empowered to take all necessary decisions in cases of emergency or urgency (Constitution ~~Part 3, Section 7- Appendix 2~~ - Scheme of Delegation to Officers, paragraph ~~3.1 7.4d~~). ~~The definition of emergency and urgency is set out in the Constitution in Part 3, Section 7, paragraph 7.5.~~
- 6.29 Delegated Authority Forms should be used for such decisions and can be obtained from ~~Democratic Services~~ the Chief Executive's Office.

## **7 Capital Programme**

### **Preparation of the capital programme**

- 7.1 The Chief Finance Officer is responsible for maintaining a rolling capital programme and this is reported annually for consideration by Full Council.
- 7.2 The programme will include spending plans and funding for the forthcoming five years. The detailed form of the programme shall be determined by the Chief Finance Officer and must be consistent with the general directions of Full Council.
- 7.3 Projects that are reliant on the receipt of government or other third party funding, including central government and other grants must follow the normal capital programme procedures.

### **Financial Strategy Advisory Group and Capital Officer Group**

- 7.4 The Financial Strategy Advisory Group has responsibility for advising on the capital programme in consultation with the Chief Finance Officer, to be presented to Policy Committees and Strategy & Resources Committee for approval.
- 7.5 The Capital Officer Group is responsible for the appraisal of all capital schemes submitted annually by budget managers. The assessment process will take into account key strategies including key priorities, the Asset Management Plan and the available capital resources. (More detail is provided in the Finance Rule Book).

### **New capital schemes**

- 7.6 New schemes will be assessed by Financial Strategy Advisory Group based on the criteria within the Capital Strategy and recommended to the relevant

committee, prior to approval from full Council. Each new scheme must have a capital project appraisal form completed and be approved by the Financial Strategy Advisory Group.

### Status of capital programme approval

- 7.7 Inclusion in the capital programme does not of itself confer authority to incur expenditure before:
- (a) The relevant Committee has approved a project appraisal in accordance with the procedures set out in the Capital Strategy and the Asset Management Plan;
  - (b) A tender or quotation has been received which does not exceed the amount included in the programme and any other relevant cost limits;
  - (c) All necessary statutory approvals have been received;
  - (d) External funding has been secured where relevant;
  - (e) Spend to Save Schemes have been appraised and demonstrated pay-back of investment.

### Variations to capital projects

- 7.8 The size, content or specification of a scheme shall not be significantly changed without the approval of the relevant service committee.

### Virement

- 7.9 The guidance for virement of the capital programme is as follows:-

Value	Level of Responsibility Role
Within Cost Centre/ Capital Scheme	Relevant Budget Manager/ Project Manager

- 7.10 All virements must be completed on the approved virement documentation

### Monitoring of progress

- 7.11 The detailed monitoring is the responsibility of the Capital Officer Group. It is the Chief Finance Officer's responsibility to report to Members on a quarterly basis and to submit any major variances of the Capital Programme to the appropriate committee for approval, in line with the table below.
- 7.12 An officer who becomes aware that the estimated cost of a capital scheme for which ~~he/she is~~ they are responsible is likely to be exceeded should notify the Chief Finance Officer. The Chief Finance Officer can authorise additional funding per capital scheme up to the following limits:

Value	Level of Responsibility Role
Up to £20,000	Chief Finance Officer
From £20,000 to £50,000	Chief Finance Officer in consultation with the Chair of the relevant Policy Committee and the Chair of S&R
Above £50,000	Committee approval required

- 7.13 For capital schemes not completed by 31<sup>st</sup> March, a schedule of capital budgets to be carried forward will be presented to Strategy and Resources Committee by July.
- 7.14 At year-end, officers are responsible for applying the most appropriate source of capital funding to finance capital expenditure.

## RISK MANAGEMENT AND CONTROL OF RESOURCES

### 8 Risk Management

#### Introduction

- 8.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the authority. This should include but is not limited to the proactive participation of all those associated with planning and delivering services.

#### Risk management

- 8.2 The Strategy and Resources Committee is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The risk management framework is monitored and reviewed by the Audit & Scrutiny Committee.
- 8.3 The Chief Executive and all Heads of Service are responsible for managing the Council's risks, taking mitigating action and promoting risk management throughout the authority.

#### Internal control

- 8.4 The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use. In addition, the Monitoring Officer has statutory responsibilities to report on prospective breaches of the law or maladministration.

- 8.5 The Accounts and Audit Regulations require every local authority to conduct a review at least once a year of the effectiveness of its system of internal control and shall include an Annual Governance Statement, prepared in accordance with proper practices. Directors and Heads of Service are responsible for ensuring the effectiveness of systems of internal control within their service.
- 8.6 It is the responsibility of Directors and Heads of Service to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

### Preventing fraud and corruption

- 8.7 The Chief Finance Officer, in conjunction with the Head of ~~Corporate Assurance Policy and Corporate Resources~~ is responsible for the development and maintenance of a policy to prevent fraud and corruption and for submitting it for approval to the Strategy and Resources Committee, prior to obtaining approval from full Council.
- 8.8 It is the responsibility of Directors and Heads of Service to make the relevant staff aware of the requirements of the protocol for addressing the issues raised by the Criminal Finances Act 2017 and the Money Laundering Regulations 2017 and the Terrorism Act 2006.

### Staffing

- 8.9 The Head of Paid Service is responsible for determining how officer support for committee roles within the authority will be organised.
- 8.10 The Head of Paid Service is responsible for providing overall management to staff. The Head of Paid Service is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- 8.11 The Chief Finance Officer, in conjunction with the Chief Executive is responsible for controlling total staff numbers by:
- advising the Strategy and Resources Committee on the budget necessary in any given year to cover estimated staffing levels;
  - adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs;
  - the proper use of appointment procedures.

### Security of Assets and Information

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

- 8.13 Directors and Heads of Service shall be responsible for maintaining proper security and privacy of information contained in the financial and other records under their control.
- 8.14 To comply with data protection legislation including the [UK](#) General Data Protection Regulation ([UKGDPR](#)) and the Data Protection Act 2018, the Data Protection Officer shall be responsible for maintaining proper security and the appropriate degree of privacy of information held within the Council, either electronically or in other formats e.g. microfiche, paper output etc. All staff are responsible for ensuring that they keep information secure and use personal data in a manner consistent with the Council's Data Protection Act Policy, Retention Policy and ICT policy.
- 8.15 The Strategy and Resources Committee is responsible for reviewing the Data Protection Act policy.

## 9 Insurance

### Review of Arrangements

- 9.1 The Chief Finance Officer, in conjunction with the Head of ~~Corporate Assurance Policy and Corporate Resources~~, is responsible for ensuring that proper insurance exists where appropriate and advising the Strategy and Resources Committee on insurance arrangements. This includes
- (a) Adequate insurance to cover all assets in the organisation
  - (b) Acceptable levels of risk are determined and insured against where appropriate
- 9.2 Details of insurance requirements are summarized below and provided in detail in the Finance Rule Book.

### Review of Insurance Cover

- 9.3 The Chief Finance Officer, in conjunction with the Head of Corporate Assurance, shall keep under review all insurance cover in consultation with other Heads of Service as appropriate.

### Records of Insurance Cover

- 9.4 The Chief Finance Officer, in conjunction with the Head of ~~Corporate Assurance Policy and Corporate Resources~~, shall maintain records of all insurance placed by the Council, showing the property and/or risks covered.

### Notification of Risks

- 9.5 Directors and Heads of Service must give prompt notification to the Chief Finance Officer and the Head of ~~Corporate Assurance Policy and Corporate Resources~~ of all new risks, properties or vehicles that require to be insured and of any alterations affecting existing insurance.
- 9.6 Directors and Heads of Service shall give prompt notification in writing to the Head of ~~Corporate Assurance Policy and Corporate Resources~~ of any loss,

liability, damage or any event which

may result in a claim against the Council, or in a claim by the Council under a policy of insurance or otherwise.

### **Negotiation of Claims**

- 9.7 The Head of ~~Corporate Assurance Policy and Corporate Resources~~ shall negotiate all claims in consultation with other officers as necessary.

### **Partnerships and 3<sup>rd</sup> Parties**

- 9.8 Directors and Heads of Service, in consultation with Head of ~~Corporate Assurance Policy and Corporate Resources~~, must ensure that the correct insurance cover is in place for any arrangements with contractor, partners or 3<sup>rd</sup> parties prior to such arrangements being entered into.

### **Fidelity Guarantee Policy**

- 9.9 All appropriate employees of the Council shall be included in a suitable fidelity guarantee policy.

### **Audit requirements**

- 9.10 The Accounts and Audit Regulations require every local authority to maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control.
- 9.11 The Council is responsible for appointing its external auditors. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by the Local Audit and Accountability Act 2014.
- 9.12 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

### **Provision of Internal Audit**

- 9.13 The Chief Finance Officer and Head of ~~Corporate Assurance Policy and Corporate Resources~~ shall maintain an adequate and effective system of internal audit to satisfy the Council's responsibilities under the Accounts and Audit Regulations 2015. The audit shall be performed, as far as practicable, to the standards set out in the "Public Sector Internal Audit Standards (PSIAS).
- 9.14 Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.
- 9.15 Strategy and Resources Committee is responsible for approving the procurement of the Council's internal audit service.

### **Powers of Internal Auditors**

9.16 To assist in complying with the requirements of the Accounts and Audit Regulations 2015, the Chief Finance Officer or ~~his~~their authorised representative shall have authority to:

- (a) Enter at all reasonable times on any Council premises or land.
- (b) Have access at all times to all records, documents and correspondence relating to any financial and other transactions of the Council, whether held by employees of the Council or by Consultants' employees under a contract for professional services.
- (c) Require and receive such explanations as are necessary concerning any matter under examination.
- (d) Require any employee of the Council to produce cash, stores or any other Council property under ~~his~~their control.

### **Reporting of Irregularities**

9.17 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council or any suspected irregularity in the exercise of the functions of the Council the relevant Director or Head of Service concerned shall immediately notify the Chief Finance Officer and the Head of ~~Corporate Assurance Policy and Corporate Resources~~. The Chief Finance Officer and/or the Head of ~~Corporate Assurance Policy and Corporate Resources~~ shall take such steps as considered necessary by way of investigation and report. This regulation does not relieve any Director or Head of Service from giving similar notification to the Chief Executive who may consider any legal and/or disciplinary implications.

### **Annual Report on Internal Audit**

9.18 At least once a year a report shall be presented to the Audit & Scrutiny Committee reviewing the internal audit coverage undertaken during the previous year and the audit plan for the forthcoming year.

### **Chief Internal Auditor**

9.19 The post of Head of Internal Audit, whether internally appointed or through a contract, shall be a fully qualified member of one of the following bodies: -

- (a) An Institute that is a member of the Consultative Committee of Accounting Bodies (CCAB);
- (b) The Institute of Internal Auditors.

### **Internal Audit Charter**

9.20 The Chief Finance Officer, in conjunction with the Head of ~~Corporate Assurance Policy and Corporate Resources~~ shall be responsible for approving the Internal Audit Charter Section. The purpose of this document is to:



- (a) ~~De~~ define the internal audit activity's purpose, authority and responsibility;
- (b) Outline the scope of internal audit work; and
- (c) Obtain corporate agreement on how internal audit should operate.

## Whistleblowing

9.21 All officers must report any suspected cases of fraud or corruption and should have regard to the Council's Whistleblowing Policy. The purpose of this policy is to establish a means by which employees who either suspect or have identified cases of fraud, corruption or other malpractice may raise issues of concern and be confident that those issues are dealt with seriously and fairly without fear of harassment.

## 10 Control of Assets

### Use of Council Property

10.1 The Council's property must only be used in accordance with the ordinary course of the Council's business. Any other use can only be made in accordance with specific directions issued by the Head of Service concerned.

### Property

10.2 The Head of Property & Regeneration will maintain an up to date register of all properties owned by the Council. The register shall record the purpose for which held, location, extent, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.

10.3 The Chief Legal Officer shall have the custody of all title deeds under secure arrangements.

### Inventories

10.4 Heads of Service shall maintain up to date inventories of the Council's furniture, fittings and equipment, and plant and machinery that has a significant value. The care and custody of such equipment shall be the responsibility of the Managers concerned.

10.5 The Head of ICT shall maintain a complete and up to date inventory of all information technology equipment.

### Stocks and Stores

10.6 Directors and Heads of Service shall be responsible for the care and custody of the stocks and stores in their division. Stocks shall be kept at the optimum level sufficient to provide an effective service.

### Responsibility for Security

10.7 Each Head of Service is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment cash, and other assets under ~~his~~their control. The Chief Finance Officer must be consulted where

security is thought to be defective or where it is considered that special security arrangements may be needed.

### **Cash Holdings**

- 10.8 Maximum limits for each cash holding shall be agreed with the Chief Finance Officer and Head of ~~Corporate Assurance Policy and Corporate Resources~~ and shall not be exceeded without their express permission (see Finance Rule Book).

### **Disposal of assets**

- 10.9 Each Director or Head of Service shall be responsible for obtaining the best value for the Council when disposing of assets under their control. The Chief Finance Officer shall be responsible for issuing guidance for the disposal of assets (see Finance Rule Book).

## **11 Treasury Management and Trust Funds**

### **Treasury Management Policy**

- 11.1 The Council shall adopt the key recommendations contained in the CIPFA publication "Treasury Management in the Public Services; Code of Practice".
- 11.2 The Council will create and maintain, as the cornerstones for effective treasury management:
- (a) A treasury management policy statement, stating the policies and objectives of its treasury management activities
  - (b) Suitable treasury management practices, setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 11.3 The Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, an interim report providing analysis of current performance and a final annual report, in the form prescribed in its treasury management practices.
- 11.4 The Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to Audit and Scrutiny Committee and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with the Council's policy statement and treasury management practices and CIPFA's Standard of Professional Practice on Treasury Management.

### **Treasury Policy Statement**

- 11.5 The content of Treasury Management Strategy will follow the recommendations contained in the Code, subject only to amendment where necessary to reflect the particular circumstances of the Council. Any such amendments will not result in the Council materially deviating from the Code's key recommendations.

### **Treasury Management Practices**

11.6 The content of treasury management practices will follow the recommendations contained in the Code, subject only to amendment where necessary to reflect the particular circumstances of the Council. Any such amendments will not result in the Council materially deviating from the Code's key recommendations.

### **Reporting on Treasury Management Activities**

11.7 Each year, the Chief Finance Officer shall report to the Council on the proposed strategy for treasury management for the forthcoming financial year.

11.8 The Chief Finance Officer shall report to Financial Strategy Advisory Group on the activities of the Treasury Management operation and on the exercise of Treasury Management powers delegated to ~~him~~/her/them. The report shall comprise an Annual Report on Treasury Management for presentation by the end of September of the succeeding financial year. A second, interim report on current performance shall be presented in Autumn to Financial Strategy Advisory Group.

11.9 To enable Audit & Scrutiny to fulfil its oversight responsibility, Financial Strategy Advisory Group will report back annually (or more regularly on an exception basis if required) to Audit & Scrutiny to disclose how it has exercised monitoring of the treasury management function.

### **Trust Funds**

11.10 All trust funds shall be in the name of the Council unless specifically approved by the Council otherwise. The Chief Executive is responsible for ensuring trust funds are operated within any relevant legislation and the specific requirements of each trust.

### **Investments and Borrowings Records**

11.11 The Chief Finance Officer shall make all borrowings and investments in the name of the Council, except where and to the extent the Council has authorised its investments to be invested by an outside agent.

11.12 The Chief Finance Officer shall maintain a register of loans and investments and records of all borrowings and investments made by the Council.

11.13 All negotiable investments, financial bonds and securities held in the name of the Council or its nominees shall be held under secure arrangements.

11.14 The requirements of the Council's Treasury Management Policies and Treasury Management Schedules must be followed at all times.

### **SYSTEMS AND PROCEDURES**

## 12 Systems and Procedures - General

### Introduction

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

### Responsibility

12.2 The Chief Finance Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by officers to the existing financial systems or the establishment of new systems must be approved by the Chief Finance Officer. Heads of Service are responsible for the proper operation of financial processes in their own departments.

12.3 Any changes to agreed procedures by Directors or Heads of Service to meet their own specific service needs should be agreed with the Chief Finance Officer.

### Training

12.4 Heads of Service should ensure that their staff receive relevant financial training that has been approved by the Chief Finance Officer.

### Data Protection and Freedom of Information Legislation

12.5 Heads of Service must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation in line with procedures agreed by the Head of Information Technology and the Council's Information Governance Officer. Divisional Managers must ensure that staff are aware of their responsibilities under the freedom of information legislation.

### Schemes of Delegation

12.6 ~~It is the responsibility of Directors and Heads of Service to ensure that a proper scheme of delegation has been established within their area and is operating effectively.~~ The scheme of delegation shall be as set out in, and in accordance with, Appendix 2. As such, any scheme of delegation should identify staff authorised to act on the Director or Head of Service's behalf in respect of payments, income collection and placing orders, together with the limits of their authority.

## 13 Banking Arrangements and Cheques

### Banking Arrangements

13.1 The Council shall review its banking arrangements at least every 5 years.

13.2 All arrangements with the Council's bankers must be made by or under arrangements approved by the Chief Finance Officer who is authorised to operate such banking accounts as he may consider necessary. For the avoidance of doubt, the Chief Finance Officer is also authorised to make such

arrangements as are necessary with custodians for the purposes of holding investments, including cash balances, managed by external fund managers.

- 13.3 Unless otherwise agreed by the Chief Finance Officer, all Council bank accounts shall stand in the name of the Epsom and Ewell Borough Council, but in any case not in the name or designation of any officer.

### **Bank Stationery**

- 13.4 All cheques, and other debit and credit forms shall be ordered only on the authority of the Chief Finance Officer, who shall make proper arrangements for their safe custody.

### **Signing of Cheques**

- 13.5 Cheques on the Council's banking accounts shall bear the ~~facsimile~~electronic signature of the Chief Finance Officer or be signed by the Chief Finance Officer or other officer authorised to do so.

### **Electronic Payment Systems**

- 13.6 Where payments are to be transmitted electronically, the Chief Finance Officer shall approve the necessary arrangements to safeguard the Council against potential loss.

### **Authorisation of Payments**

- 13.7 All payments, including BACs payments, in excess of £40,000 shall be countersigned by two authorised officers.
- 13.8 Only those Officers identified in the Council's Treasury Management Procedures are authorised to make payments from the Council's accounts or otherwise approve the transmission of funds. Treasury Management Procedures must be followed at all times.

## **14 Income**

### **Income Policy**

- 14.1 The Council's income policy shall be determined by the Strategy and Resources Committee as part of the Financial Plan. The Chief Finance Officer is responsible for setting targets for fees and charges within the Financial Plan.
- 14.2 The charge to be made for any service, so far as not delegated as set out in the Constitution to an officer, must be approved by the relevant service committee.

### **Review of Fees and Charges**

- 14.3 The Heads of Service shall review charges at least once a year. Such charges shall then be submitted to the relevant Committee for approval, except where delegated authority shall otherwise provide. The financial

implications of such reviews shall be reflected in the estimates for the forthcoming financial year.

### **Collection of Monies**

- 14.4 The collection of all money due to the Council shall be under the supervision of the Chief Finance Officer or under arrangements specifically approved by the Chief Finance Officer.

### **Security and Controls**

- 14.5 Each Divisional Manager is responsible for the regular review of their department's internal procedures for collecting and controlling income to ensure that the most effective controls are used.

### **Notification of Income Due**

- 14.6 Each Head of Service shall inform the Chief Finance Officer promptly with such particulars of all amounts due as may be required by him to record correctly all sums due to the Council and to ensure the prompt rendering of accounts for the recovery of income due. This shall include details of all contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council. The Chief Finance Officer shall have the right to inspect any documents or other evidence in this connection.

### **Money Laundering**

- 14.7 The Council is required by law to establish procedures for money laundering as set out in the Anti Money Laundering Policy contained in the Finance Rule Book.
- 14.8 The Head of Corporate Assurance Policy and Corporate Resources discharges the duty of the designated Money Laundering Officer and is responsible for updating policies and procedures and providing advice to all staff. All staff must abide by the policy at all times and take prompt and proper action if they have any suspicions of money laundering.

### **Recovery of Debts**

- 14.9 Heads of Service shall ensure that debts due to the Council are referred to the Chief Finance Officer for recovery without delay.
- 14.10 The Chief Finance Officer shall take all reasonable steps to recover amounts due to the Council, including the appointment of Enforcement Officers or other collection agencies.
- 14.11 The Chief Finance Officer is authorised to initiate County Court proceedings and sign the appropriate forms for the recovery of sundry debts.
- 14.12 With the exception of outstanding Council Tax and Business Rates, all outstanding debts which have been initiated in the County Court but which are being contested shall be referred to the Chief Finance Officer who shall take all reasonable steps to recover them.

## Writing Off Debts

- 14.13 A debt that is properly due to the Council shall only be reduced or written off as irrecoverable on the authority of: -
- (a) The Chief Finance Officer for debts up to £5,000, and
  - (b) Over £5,000 up to £20,000, in consultation with the Chair of Strategy and Resources provided that they are satisfied that the debt is not recoverable at reasonable effort and expense.
  - (c) Write offs in excess of £20,000 should be reported to the Strategy and Resources Committee.
- 14.14 The above limits do not apply to the write off of business rates debts, where the liable party is subject to insolvency action as prescribed in the Insolvency Act 1986 and the Council is not legally able to continue with recovery action. The write-off of these debts can be authorised by the Head of Digital and Service Transformation, in conjunction with the Chief Finance Officer.
- 14.15 A record of all amounts written off shall be maintained by the Chief Finance Officer and shall be kept up to date.

## 15 Orders for Work, Goods and Services

### Key Controls

- 15.1 Orders shall only be issued for goods or services if the cost is covered by an approved revenue or capital budget.
- 15.2 All orders must comply with the Council's Standing Orders for Contracts and the guidelines set down in the Council's Procurement Strategy.
- 15.3 Official orders must be issued for all work, goods or services to be supplied to the Council except for instances listed in the Finance Rule Book and such other exceptions as the Chief Finance Officer may approve.
- 15.4 Directors and Heads of Services are responsible for ensuring that any procurement of contractors is compliant with HMRC's IR35 off-payroll working rules.

### Official Orders

- 15.5 Official orders shall be in a form approved by the Chief Finance Officer and are to be signed only by staff approved by the appropriate Director or Head of Service. They shall include any contractual requirements set out in Standing Orders for Contracts.
- 15.6 Each order shall conform to directions regarding purchasing and the standardisation of supplies and materials.
- 15.7 A copy of each order shall be retained by the responsible officer and shall show the cost or estimated cost of the work or goods and the relevant application. The copy may be kept in paper form or in an electronic form.



- 15.8 Telephone, ~~facsimile transfer~~ electronic communication ("emails~~fax~~" or similar) or verbal orders shall be confirmed as soon as practicable, within 2 working days, by official orders that clearly show that they confirm instructions previously issued.
- 15.9 Official orders must only be used for legitimate Council business. They must not be used for the procurement of goods, materials or services for the personal or other use of an employee, nor must personal or private use be made of Council contracts.

### **Variation of Orders**

- 15.10 Variations to Official Orders must be confirmed as soon as practicable in writing with a reference to the original Official Order.

### **Staff Benefits Scheme**

- 15.11 Any procurement under the staff benefit package must be made in accordance with the regulations for that scheme.

### **Related Party Transactions**

- 15.12 Any Officer who is in a position to influence the award of a contract or the placing of an order must inform their Head of Service if a transaction will involve an individual or company with whom they have a relationship.
- 15.13 No-one employed by the Council should enter into a contract with the Council, either as an individual or as a company, other than through their employment contract unless otherwise approved by the Chief Executive.

## **16 Paying for Work, Goods and Services**

### **Separation of Duties**

- 16.1 The activity of ordering/receiving goods should be separate from the authorization of payment of the account.

### **Method of Payment**

- 16.2 The normal method of payment of money due from the Council shall be by BACS drawn on the Council's banking accounts by the Chief Finance Officer.

### **Certification of Invoices**

- 16.3 All managers and authorised signatories are responsible for examining, verifying and certifying invoice(s) and any other payment vouchers arising from activities in their division. An authorized signatory must be satisfied that all works, goods or services received to which the account relates have been carried out, examined and approved, are within budget and are correctly coded. Such certification, by or on behalf of the Director or Head of Service, shall be in manuscript or by an electronic method approved by a Director or Head of Service. The names of officers authorised to sign such records shall be sent to the Chief Finance Officer by each manager together with specimen signatures and shall be amended on the occasion of any change within agreed limits specified in the Finance Rule Book.



### **Examination of Invoices**

16.4 Invoices and other payment vouchers shall be passed without delay to the Chief Finance Officer who shall examine them to the extent that is considered necessary, for which purpose he shall be entitled to make such enquiries and to receive such information and explanations as may be required. Where the Chief Finance Officer is satisfied that a certified account has not fully complied with the Council's Standing Orders for Contracts or Financial Regulations, it shall be returned to the certifying officer requesting an explanation. In the event that no satisfactory explanation is forthcoming, the Chief Finance Officer shall report on the circumstances to the Strategic Management Team meeting and take action as necessary.

### **Payment Policy**

16.5 Heads of Service shall take all reasonable steps necessary to ensure that the payment is made within 30 days wherever possible.

16.6 Special payment terms may only be agreed with suppliers following the prior agreement of the Chief Finance Officer.

### **Purchasing Cards**

16.7 Nominated officers agreed by the Chief Finance Officer can have purchasing cards for the purchase of low value approved items. The nominated officers are responsible for ensuring all payments are made timely and correctly with appropriate authorization and vouchers corresponding to payments. The nominated officers are responsible for ensuring their cards are held securely at all time (further details are available in the Finance Rule Book and procedures).

## **17 Payments to Employees and Members**

### **Responsibility**

17.1 The Head of Human Resources and Organisational Development is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Members.

### **Payment of Salaries and Wages**

17.2 The payment of all salaries, wages, pensions, compensations and other emoluments to all employees or former employees of the Council shall be made under arrangements approved and controlled by the Chief Finance Officer.

17.3 The Head of Human Resources and Organisational Development shall maintain effective records affecting the payment of salaries and wages, and in particular:

- (a) Appointments, (both permanent and temporary), resignations, dismissals, suspensions, secondments, and transfers;

- (b) Absences from duty for sickness or other reason, apart from approved leave;
- (c) Changes in remuneration;
- (d) Information necessary to maintain records of service for pensions, income tax and National Insurance.

### **Appointment of Staff**

17.4 Appointments of all employees shall be made in accordance with the Human Resources Policies and Procedures of the Council and the approved establishments, grades and rates of pay.

### **Variations to the Establishment**

17.5 Any proposal to vary the authorised establishment shall be made in accordance with the Human Resources Policies and Procedures ~~approved by the Council.~~

### **Time Sheets and other Records**

17.6 The format of all time records and other pay documents must be approved by the Head of HR and Organisational Development.

### **Claims for Staff Expenses**

17.7 All claims for payment of car allowances, training expenses, subsistence allowances, travelling and incidental expenses shall be submitted via the HR Self Service system and duly certified by the appropriate manager, by a specified date in each month.

17.8 The certification by the relevant manager shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

17.9 All officers must keep receipts for inspection by HMRC. These should also be submitted to the appropriate manager and stored via the HR Self Service system.

### **Payments to Members**

17.10 Payment to Members shall be in accordance with the Council's Members' Allowances Scheme.

17.11 Payment to co-opted members entitled to claim travelling and/or other allowances will be made by the Chief Finance Officer upon receipt of the prescribed form duly completed.

## 18 Taxation

### Responsibility

- 18.1 The Chief Finance Officer is responsible for advising Directors and Heads of Service, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.
- 18.2 The Chief Finance Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- 18.3 The Chief Finance Officer be responsible for all communications with HM Revenue and Customs for all matters relating to taxation. The Chief Finance Officer shall maintain records and accounts sufficient to meet the obligations of the collection agencies.
- 18.4 The Chief Finance Officer shall report any significant changes relating to the Council's tax affairs to Strategy and Resources Committee.
- 18.5 The Chief Finance Officer shall be responsible for creating and maintaining an awareness of the importance of effective tax accounting across the whole organisation, and especially among those responsible for the processing of transactions.
- 18.6 The Chief Finance Officer shall issue instructions and manuals as appropriate based on up to date legislation.
- 18.7 The Chief Finance Officer may delegate the power to carry out these responsibilities provided this is done so in accordance with Appendix 2.

### Appointment of Advisors

- 18.8 The Chief Finance Officer shall appoint professional advisers where considered necessary to resolve any taxation issues.

### Property Transactions

- 18.9 The Chief Finance Officer and Head of Property and Regeneration shall be informed of all proposed acquisitions, disposals, rentals and leasing of property at the planning stage and shall advise on the taxation implications accordingly.

## EXTERNAL ARRANGEMENTS

### 19 Partnerships, External Arrangements and Work for Third Parties

- 19.1 Heads of Service, Directors and the Chief Executive are permitted to bid for external funds, provided they first inform the Chief Finance Officer, and if appropriate the Director and Chief Executive, and can evidence that the bid will have no negative impact on the Council's budget. Should the proposed bid involve a significant issue of policy, it should be reported to the relevant policy committee.
- 19.2 The Chief Finance Officer is responsible for issuing any required guidance on

- the financial aspects of contracts with third parties and external bodies.
- 19.3 Heads of Service and managers must ensure that work for 3<sup>rd</sup> parties does not have an adverse impact on any of the Council's services. Before entering into agreements, a risk management appraisal must be undertaken. All guidance issued by the Chief Finance Officer must be complied with and all agreements and arrangements must be properly documented.
  - 19.4 The Chief Finance Officer in conjunction with the Head of Corporate Assurance, must ensure that adequate insurance arrangements are in place for all partners, 3<sup>rd</sup> parties or external arrangements. The Chief Finance Officer is responsible for advising on the tax implications of agreements with other parties.
  - 19.5 The relevant Director or Head of Service is responsible for approving partnership arrangements and informing the Chief Finance Officer of such arrangements. Where appropriate Directors or Heads of Service should seek financial and legal advice prior to entering into a partnership arrangement and that risk assessments are undertaken.
  - 19.6 Directors and Heads of Service are also responsible for evaluating any long term implications of entering into such arrangements and informing the Chief Finance Officer.
  - 19.7 The Director or Heads of Service must also ensure that adequate records are maintained of any expenditure, grant or income including match funding.
  - 19.8 The appropriate Director or Head of Service and manager is responsible for ensuring that all funding notified by external bodies is received and used for the intended purpose and properly recorded in the Council's accounts. It is also the responsibility of the appropriate Director or Head of Service to inform the Chief Finance Officer of bids for external funding with any implications such as match funding and or revenue budget implications.
  - 19.9 Any contracts must comply with the Council's Contract Standing Orders.

## **CONTRACT STANDING ORDERS (CSO's)**

Rules to be followed when buying on behalf of the Council

Document Information and Governance

Approval and Publication

Approving Committee	Publication	Document Owner	Review Frequency	Next Review
Strategy & Resources	Internal and external  Within the Councils Constitution	Procurement and Contracts Manager	Annual	12-calendar months from the date of last approval.

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### 1. Introduction

These Contract Standing Orders ('CSO's) set out how the Council manages its spending. They relate to the purchasing of all goods, works & services and ensure that prior to any expenditure Officers give proper consideration as to whether the purchase is required, and that Contracts are entered into in a fair, open and transparent way.

The purpose of these CSOs is to provide a structure for purchasing decisions and processes which ensure that the Council:

(a) furthers its corporate objectives;

(b) uses its resources efficiently and effectively;

(c) obtains best value;

(d) purchases or provides quality goods, services and works in a cost effective way;

(e) safeguards its reputation; and

(f) meets standards of good governance.

Officers who purchase on behalf of the Council are responsible for following these CSOs including all relevant policies and guidance detailed. Heads of Service are accountable for all procurement in their respective areas of responsibility and shall take appropriate action in the event of a breach of these CSOs .

The Procurement **and Contracts Manager** is responsible for ensuring the CSOs are up to date and reflect current law including any retained EU law. Any change in applicable law must be observed until the CSOs can be revised. If there is a conflict between applicable law and these CSOs then the law will take precedence.

## Section 2

### 2. Statutory Requirements

2.1 These CSOs are made under section 135 of the Local Government Act 1972

2.12.2 Public procurement in the UK is regulated by the Public Contracts Regulations 2015 (the "PCR 2015"), which derive from the EU Public Contracts Directive 2014 – this is retained law. Accordingly, the PCR 2015 continue to apply to public procurements in the UK.

2.22.3 Where the value of the contract exceeds the relevant EU Procurement Directive threshold (**threshold 3**) then the Council must comply with the EU tendering requirements set out in the PCR 2015.

2.32.4 For the purpose of these CSOs, the EU threshold means the threshold set out within the Public Contract Directive as amended from time to time for public supply contracts, public works contracts and public service contracts awarded by local authorities. The applicable thresholds can be found in Annex 2.

### 3. Compliance

3.1 These CSOs apply to any transaction in which the Council acquires services, goods (supplies) or works (whether or not payment is to be made by or to the Council) including all purchase orders, concessions, and contractual arrangements entered into by the Council, except for the specific types of contracts and exemptions which are listed in clause 4 below. All Officers contracting purchasing on behalf of the Council are expected to comply with these CSOs.



- 3.2 All purchasing activity and resulting contracts made by, or on behalf of the Council must comply with:
- a) The Councils Constitution, including Financial Regulations and relevant Council policies.
  - b) The Public Contract Regulations 2015
  - c) The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020
  - d) Local government Transparency Code 2015 (rule 31)
  - e) Local Government Act 1999 (Section 3; best value)
  - f) Any and all applicable statutory provisions;

3.3 If there is any conflict between the above, UK law takes precedence, followed by the Council's constitution, the National Procurement Policy Statement, [Council's Procurement Policy and Principles](#), and any Council policies or procedures, in that order.

3.33.4 Purchase Orders must be approved and/or Contracts signed by both parties prior to any contract start date.

3.43.5 Where an Officer has deliberately disaggregated a contract to avoid a particular threshold procedure, the relevant Head of Service **in collaboration with the Procurement and Contracts Manager** will have the right to request the procurement to be cancelled.

#### 4. Scope

4.1 These orders do not apply to the following items, which are managed by separate policies:

Type of Contract	Policy / Law which covers Contracts out of scope
Contracts for the acquisition or lease of land and/or real estate	In accordance with the local government act 1972, Housing Act 1985 or any related acts or authorities.  Please see CSO 20
Contracts for permanent or fixed term employment	HR / Recruitment Policies
Awarding Grants	Each grant will be governed by its own funding procedures. These will be made available to bidders upon request.  CIL Grant Funding – <a href="#">LINK</a>
Where the contract relates to a financing transaction	Not subject to competition due to their nature
Works orders placed with statutory undertakers	Not subject to competition due to their nature
Procurements that have been jointly procured by another local authority, public sector consortium or collaboration of which the Council is a party but not the Lead Authority.	The procurement of Contracts of this nature will be governed by the Constitution of the Contracting/lead authority  Internal contract sign-off thresholds will still apply; please see Section 5 – Procurement Thresholds and Procedures
Orders for goods and services placed against an established Framework that was subject to these CSO's during its set-up.	The establishment of the call-off Contract or Framework Agreement would have been governed by the CSO's in the first instance, as such any call offs / mini competitions ran under

	such agreement will have already complied with these CSO's.
Orders for goods, works and services placed against an established public sectors accessible framework	Frameworks that have been established and created for public sector use would have been governed by the PCR's.
Where goods, services or works are awarded because of a declared emergency and authorised by the Chief Executive, Director of Corporate Services, Director of Environment, Housing and Regeneration, <del>Head of Corporate Assurance</del> <b>Head of Policy and Corporate Resources</b> and Applied <b>Resilience; Emergency Planning Consultants</b> . <del>the Emergency Planning Officer</del> . Contracts awarded must not exceed the estimated period of recovery	Constitution – Part 4; Financial Planning – General  6.10 - Expenditure may be authorised in an emergency by the Chief Finance Officer with the agreement of the Chairman of the relevant Committee and shall be reported to the next meeting of that Committee. This procedure will only be adopted if the emergency does not provide sufficient time to follow the procedure set-out at 6.25.

4.2 All other Contracts made by or on behalf of the Council must comply with these CSOs unless there is an Exemption (CSO 20) or Waiver (CSO 21).

## 5. Roles and Responsibilities

5.1 5.1 ~~—All officers have a duty to report breaches of the CSOs to the Chief Finance Officer or to the Monitoring Officer. Compliance with these CSOs is also subject to internal and external audit.~~

5.2 ~~In considering how best to purchase works, goods and services, an officer with responsibility for purchasing (procuring officer) shall take into account wider contractual delivery opportunities and purchasing methods such as setting up or letting under framework agreements, joint procurements with other public authorities, e-procurement methods and the availability of local authority trading and charging powers under the Local Government Act 2003 and the Localism Act 2011.~~

4.25.3 The Procurement and Contracts ~~Manager~~ / Officer is responsible for:

- a) Providing expert market knowledge ensuring compliance and delivering best value
- b) Ensuring Officers have the correct tools, information and guidance to deliver a compliant, cost effective and good quality contracts.
- c) Offering expert advice to Officers procuring within Thresholds 1 & 2.
- d) Taking a commercial lead on all Procurements within threshold 3.
- e) Updating and delivering the Procurement Strategy
- f) Ensuring transparency by: ~~maintaining~~
  - a. **Maintaining and publishing the Contract Register**
  - b. **Reviewing waiver submissions and maintaining Waiver log**
  - c. **Reviewing spend across all categories quarterly**
- g) Embedding social value and **sustainable procurement** appropriately across Council expenditure
- h) ~~Offering~~ **Delivering procurement and contracts training to purchasing Officers**
- i) Ensuring suppliers are aware of, and follow, the Council's '*How to do business with us*' when bidding.
- j) Manage e-sourcing platform

- k) Updating the internal and external web pages to ensure Officers, Suppliers and residents are kept informed.

5.25 Officers purchasing on behalf of the Council are responsible for:

- a) Any contract in excess of £5,000 should be reported to the Procurement Officer so that the Contract Register can be updated and published accordingly.
- b) Complying with these CSOs and all relevant policies;
- c) Ensuring there is adequate budget available for any purchase prior to approaching the market for quotes;
- d) For purchases within threshold 1, Purchase Orders (PO) must be approved **before** the requirements are delivered to the Council.
- e) For purchases within threshold 2 & 3, Officers must ensure the contract is signed by both parties **before** raising a PO.
- f) For Contracts within threshold 2 and 3, Officers must ensure they have properly engaged with legal services and an appropriate level contract is to be used.
- g) Ensure specifications accurately define the requirements.
- h) Consideration is given to equality and diversity as well as social value implications.
- i) Ensuring that HR is consulted, and the appropriate approval obtained for requirements of temporary workers or consultants outside any agreed corporate contract.
- j) Contracts are to be managed within Services, either by a dedicated Contract Manager or by a nominated officer.

## 5.6. Purchase Orders

- 6.1 Purchase Orders (PO) should be raised within the Council's Purchasing system.
- 6.2 Invoices must be received electronically ~~When an invoice is received, with the PO number should be clearly highlighted. and the invoice signed off by an authorised signatory;~~
- 6.3 **Invoices should be emailed to [creditors@epsom-ewell.gov.uk](mailto:creditors@epsom-ewell.gov.uk) for payment. To ensure prompt payment and to satisfy audit requirements, your email should include:**
- the supplier name and invoice number in the subject heading
  - the invoice as an attachment
  - your confirmation that the invoice is authorised for payment (eg "I authorise the attached invoice for payment")
  - a correct purchase order number
- 6.3 ~~Approved invoices should be sent to [Creditors@epsom-ewell.gov.uk](mailto:Creditors@epsom-ewell.gov.uk) for payment;~~
- 6.4 Any invoice received by the Council's Creditors that cannot be matched to a purchase order will be referred back to the budget manager, unless it falls under one of the following exemptions from purchase orders:
1. Supplies of utility services
  2. Periodical payments (such as rates or rents)
  3. Purchase card transactions
  4. Transport and Facilities Management contracts
  5. Treasury management transactions
  6. Refunds and grants
  7. Statutory payments to other government organisations
  8. Theatre performances
  9. Any order for works, goods or services with a value less than £150

## **6.7. Purchasing Cards**

~~6.17.1~~ The Council makes use of Purchase Cards. These are effectively credit cards which are used to make small purchases in a wide range of situations. Officers who are supplied with a purchasing card must refer to the '*Purchasing Card User Guide*' for further information.

~~6.27.2~~ Email copies of purchase card logs remain the preferred route wherever possible. However, we will still accept paper copies where it is impractical to provide electronically by email, for example because there is a high volume of receipts required as evidence for purchases.

## **7.8. Temporary Staff, Consultants and Professional Services**

~~7.18.1~~ Procurement works closely with HR to manage the Council's temporary agency workforce needs. ~~and applies to any appointment outside the Council's direct employment arrangements.~~ Prior to a permanent or fixed term appointment the appropriate REC01 must be completed (except in Operational Services).

8.2 The Council has a contract for the provision of temporary agency staff via a neutral-vendor service supplier. All temporary agency workforce must be sourced via this Contract in the first instance.

8.3 Where it is not possible to use this contract, a Head of Service may use an alternative "off contract" agency. This appointment must be agreed in advance with the Head of HR & OD, the role is considered specialist and a waiver completed. This ensures complete transparency of off-contract temporary appointments.

8.4 Where the role is considered specialist a contract must be agreed with the Legal Team.

8.5 Temporary agency staff, and other consultants or contractors, must abide by the terms of their contract with the Council and follow the Council's Code of Conduct.

## **8.9. IR35**

~~8.19.1~~ IR35 relates to off-payroll working. This is where a supplier is operating and providing services to the Council via an intermediary, such as a limited company, and were it not for that arrangement, they would be considered an employee and within IR35.

~~8.29.2~~ It is the responsibility of the Council to determine if IR35 applies or not and any unpaid tax can be claimed back if the Council ~~gets~~ makes the decision wrong.

~~8.39.3~~ If IR35 does apply the Council (or fee payer if via an agency) would be responsible for making employment tax and National Insurance deductions. ~~Advice should be sought from HR.~~

~~8.49.4~~ Further IR35 advice can be found via the link within Annex 3 or by contacting the HR Team.

## **9.10. Grants**

10.1 The making of grants is not subject to these Orders. You must follow the rules and guidance for grant-making that are available internally for each individual grant. Officers are reminded to take into account the legal requirements concerning subsidy control.

## **10.11. Social Value**

~~10.111.1~~ The Public Services (Social Value) Act 2012 came into force on 31st January 2012. The act requires the Public Sector to consider how they can use contracts to enhance the wider

wellbeing of the community. This complements existing procurement legislation and reinforces social value as part of the value for money considerations.

40.211.2 Social Value (SV) can be achieved by generating benefits to society, the economy and positive impacts to the environment and local communities via our external spend. It can be created in many ways and has wide ranging benefits.

40.311.3 The Social Value Act 2012 currently applies only to service contracts over the EU threshold (~~£189k~~) (£213,477) but shall be considered in all procurements where applicable. Social value forms part of a bidders commitments at tender stage and should be tailored to the subject nature of the contract being awarded.

40.411.4 It is the Contract Managers responsibility to ensure SV is being delivered during the life of the contract.

#### 44.12. Modern Slavery

12.1 The Modern Slavery Act 2015 ("MSA") is a UK act of Parliament designed to tackle slavery and human trafficking through the consolidation of previous legislation and the introduction of new measures. Specifically, it introduces new requirements for organisations in regards to their business and supply chains – and creates a criminal offence.

12.2 Modern Slavery is defined as slavery, servitude, forced or compulsory labour, human trafficking and exploitation was put in place.

12.3 For procurements within threshold 3, the Council will use the mandatory standard supplier questionnaire (SSQ) on all its procurements which includes a section on the supplier's approach to the Modern Slavery Act, slavery and human trafficking in the supply chain.

#### 42.13. Sustainable Procurement

13.1 Sustainable procurement, put simply, is the process by which an organisation meets their purchasing needs in a way that achieves value for money, on a whole life basis, whilst benefitting the organisation, its customers, the wider society and economy and protecting the environment.

13.2 The Council seeks to address the environmental impact of its activities. To help do this, suppliers bidding for contract opportunities will be asked, where appropriate, to demonstrate their awareness of relevant environmental issues through their own policies.

13.3 Typically sustainable procurement should follow the following principles:

- Sustainable procurement is the act of adopting social, economic and environmental factors alongside the typical price and quality considerations into the organisations handling of procurement processes and procedures.
- Sustainable procurement isn't just about buying 'green' products. It includes planning ahead to manage demand, effective ongoing contract management and dealing with supply chain risks and impacts.
- Incorporating sustainable procurement into our future contracts in order to facilitate a reduction in our Scope 3 (supply chain emissions).

13.4 Officers purchasing on behalf of the Council should be aware of the Councils Climate Change Action Plan (CCAP) which incorporates single use plastic policy and the Biodiversity Action Plan. The impact of climate change should be built into procurements where appropriate.

#### **14. Reverse charge of VAT**

- 14.1 The VAT reverse charge for construction came into effect on 1 March 2020. The reverse charge applies to any services related to the construction of buildings and the materials, but not to professionals' fees like those of architects, surveyors, or consultants. A reverse charge means that the recipient will be accountable for the VAT rather than the supplier.

## 15. Accessibility Standards

- 15.1 In 2018 the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018 came into effect. This Act builds upon existing obligations under the Equality Act 2010.
- 15.2 Any procurement that will result in a public facing website where the Council or a supplier on its behalf is presenting information relating to the Council or services the Council offer, must comply with the Act and Regulations and must meet the new accessibility standards.
- 15.3 Officers must ensure that the Councils Communications Teams advice is sought.

## Transparency

### 16. Transparency, Publication of spend, Opportunities and Awards

- 16.1 The Council is committed to displaying information that explains how its money is spent. The Local Government Transparency Code 2015 requires Local Authorities to publish any expenditure that exceeds £500 and all Contracts over £5,000. This can be found on the Councils public website.
- 16.2 Under regulations 106, 108, 110 and 112 of the PCR's, the Council has a statutory obligation to advertise Contract awards over £25,000 on Contracts Finder.
- 16.3 The Councils e-Sourcing Portal will automatically publish contract and award notices. For procurements over £25,000 (but not advertised through the Councils e-Sourcing platform) must be completed and published directly on the Contracts Finder website by the Procurement and Contracts Officer.
- 16.4 In January 2021, Find a Tender service (FTS) was launched to replace the OJEU Contracts notices and awards system. The Councils e-Sourcing Portal automatically publishes opportunities on FTS.
- 16.5 The Council has a further obligation to advertise contract opportunities and awards within Threshold 3 on FTS.

### 17. e-tendering

- 17.1 All procurements within threshold 2 and 3 must be advertised via the Councils eSourcing platform. ~~In-Tend~~. This ensures that the tender opportunity is advertised to the market in a fair and auditable way.
- 17.2 ~~In-Tend~~ The eSourcing platform will automatically publish contract opportunity and award notices to Contracts Finder and Find A Tender Service (FTS) ensuring the procurement exercise remains compliant.
- 17.3 Procurements using a public sector accessible framework do not require a Contracts Finder opportunity notice. Award notices will still need to be published using the Contracts Finder and Find a Tender Service websites.
- 17.4 ~~In-Tend~~ eSourcing set-up, passwords, support and training can be sought from the Procurement and Contracts Officer.

## 18. Contract Register

- 18.1 In line with the **Transparency Code 2015**, the Councils has a statutory obligation to publish any spend over £500 and Contracts over £5,000 on its website.
- 18.2 Officers who award contracts over £5,000 must inform the Procurement **and Contracts Manager** / Officer of each contract for the Contract Register to be updated.
- 18.3 **Contract managers / owners have the responsibility to update the contract register with current and new contracts.**
- 18.4 **The Contract Register is published every 3-months**

## 19. Freedom of Information

- 19.1 In accordance with the Freedom of Information Act (FOIA) 2000 and Environmental Information Regulations (EIR) 2004, the Council has an obligation to publish specific information and to provide information to members of the public upon request. That is subject to certain disclosure exemptions such as where confidential or commercially sensitive information may be withheld.

## 20. Exemptions

- 20.1 These CSOs apply to all procurement undertaken by the Council unless the procurement is within Thresholds 1 & 2 and falls within one of the following categories:
  - a) Emergency purchases. Emergency purchases are to be made by departments only when normal functions and operations of the Council when property, equipment, or life are endangered through unexpected circumstances and materials, services, etc., and are needed immediately. Sufficient funds must be available and signed off by the Budget Holder.
  - b) Call offs from **public sector accessible** frameworks ~~agreements~~ which have been tendered; ~~internal budget approval must be sought.~~ **Procuring Officers must still complete a Quick-Quote or RFQ Procurement Report.**
  - c) An extension to an existing Contract which contains express provision as to the extension of that Contract and provided those conditions are followed. The relevant Head of Service has the authority to agree to and sign-off the extension.
  - d) the Council is acting as an agent for another organisation and is acting in accordance with that organisation's CSOs;
  - e) employment contracts;
  - f) disposal or acquisition of land
  - g) legal advice, legal services and expert witnesses
  - ~~h) Where a Market Insight Report has been written by the procuring officer which clearly evidences insufficient credible competition~~
  - i) There is a variation (additional work) to an existing Contract where the variation is outside the scope of the Contract but it would be inappropriate to offer the additional work to competition. For example, Consultants when their area of expertise or existing knowledge would preclude using another.

## 21. Waivers

- 21.1 The requirement for the Council to conduct a competitive procurement process for contracts within Thresholds 1 & 2 of these CSO's may be waived in exceptional



circumstances by the following officers:

1. [Director of Corporate Resources](#) or Head of [Policy and Assurance Resources](#); [and/or](#)
2. Chief Finance Officer [or Chief Accountant](#)

~~21.2 If either Officer identified in 21.1 is unavailable, the Chief Accountant and Director of Corporate Services or Director of Environment, Housing & Regeneration within their respective Services can act under delegated authority. (??)~~

- 21.3 A waiver cannot be granted for procurements in threshold 3 as it would contravene the PCR's 2015.
- 21.4 Officers must obtain approval for a Waiver by completing the 'Waiver Request Form' documenting the reason for which the waiver is sought, including justification and risk.
- 21.5 Waiver Request Forms must be completed in full and accurately describe the services needed. Forms not completed satisfactorily will be returned to the author.
- 21.6 All applications for waivers of these Orders must be submitted to the Procurement **and Contracts** Officer who will seek approval from Officers listed in 21.1.
- 21.7 Applications for waivers which are as a result of poor contract planning will rarely be considered genuinely exceptional.
- 21.8 The Procurement **and Contracts** Officer must maintain a log of all waivers.

### Section 3

#### **22. Permission to tender**

- 22.1 ~~For thresholds 1 and 2, Heads of Service have the authority to commence a tendering process, via email. Budget must be available within the service or finance approval must be sought in advance of authority to commence. Provided there is a business case for the procurement and financial provision has been obtained.~~
- 22.2 For procurements in threshold 3, Heads of Service have the authority to commence a tendering process provided a business case for the procurement has been approved which includes financial provision and approval.
- 22.3 Where the value of the contract is in excess of £750,000, the procurement must be approved by the relevant committee prior to the commencement of the procurement process.
- 22.4 For procurements within threshold 2 & 3 Officers must **complete section A of the procurement report. This sets out budget availability, stakeholder engagement and options appraisals**
- 22.5 Existing public sector frameworks have been explored and utilised where possible for



all three thresholds.

### 23. Contract Value Calculation

- 23.1 Prior to commencing a procurement exercise Officers must estimate the aggregate value; this will determine which threshold the procurement falls under.
- 23.2 The 'Contract Value' means the estimated total aggregated value payable in pounds sterling over life of the Contract, including any extensions. This is exclusive of Value Added Tax (VAT). In respect of any consortium or joint contract, the Contract value must be the aggregate of each participating authority's requirements in estimating the contract value.
- 23.3 Contracts must not be purposefully underestimated or disaggregated into two or more separate contracts with the intention of avoiding the application of these Orders or the PCR's.
- 23.4 Spend with suppliers will be monitored regularly to ensure contracts are not being disproportionately awarded and exceed thresholds.
- 23.5 In the case of Framework Agreements or Dynamic Purchasing Systems, the contract value must be calculated to include the total estimated value, net of VAT, of all the contracts envisaged to be awarded for the total term of the Framework Agreement or the Dynamic Purchasing System.

### ~~24. Consideration and budget approval~~

- ~~24.1 Before commencing a procurement process, Officers must ensure:~~
- ~~24.2 For procurements within threshold 2 & 3 of the Procedures for Procurement table within Section 5, Officers must **complete section A of the procurement report. This sets out budget availability, stakeholder engagement and options appraisals.** ensure they have conducted an options appraisal **within the procurement report** clearly setting out the need for the service and options considered to procure.~~
- ~~24.3 Budget approval has been sought and a cost center assigned.~~
- ~~24.4 Heads of Service (HoS) have the authority to commence a tendering process provided there is a written business case~~
- ~~24.5 Where the value of the Contract exceeds £750k, the Procurement must be approved by the relevant Committee **prior** to the commencement of the procurement process. This approval must be embedded into the final draft of the business case.~~
- ~~24.6 Existing Contract or Frameworks have been explored and where possible utilised.~~
- ~~24.7 Where appropriate they have engaged with the Procurement Officer.~~

### 24 Declaration of Interest

- 24.1 At any point during the procurement process, if an Officer or evaluator becomes aware that he has a direct or indirect pecuniary interest in a Contract which the Council has entered into, or proposes to enter into, their interest must be recorded within the Procurement Report. This includes interests by their close associates or family members. Failure to declare an interest, of which the officer is aware, is a disciplinary offence.

## 25.Contract Management

- 25.1 It is the procuring officer's responsibility to ensure that there is a robust Contract Management plan in place that is proportionate to the scale and scope of the Contract. This should include, but is not limited to:
- a) Accountability, roles and responsibility,
  - b) Strong government procedures
  - c) Measure and report on performance and use KPIs and data efficiently to incentivise good performance;
  - d) Drive continuous improvement, value for money and capture innovation
  - e) Adopt and encourage mature commercial behaviours;
- 25.2 Any extensions or variations to a Contract may only be made in accordance with the Contract and in line with advice from legal services and PCRs.
- 25.3 The Councils Contract Manager should be contacted for further advice and support

## **SECTION 4**

### 26.Form of Contract

- 26.1 Contract award notification shall be issued;
- a) By the Officer leading the procurement only
  - b) When the evaluation has been completed and Procurement report signed off.
- 26.2 For Procurements in thresholds 2 & 3, Legal Services should be instructed using the Legal Instruction Form at the Officers earliest opportunity. By not doing so, your Project may be delayed. ~~significantly~~.
- 26.3 All Contracts shall:
- a) specify the goods, materials or services to be supplied and/or works to be undertaken, price to be paid, payment terms and conditions, details of any discounts or penalties, the period of the Contract and any other terms and conditions that may be agreed;
  - b) provide for the payment of liquidated damages where they are appropriate;
  - c) contain details of any security that is required by the Council; and
  - d) prohibit the Contractor from sub-Contracting or assigning all or any part of the Contract without the express consent of the Council.
  - e) Contain a copy of the tender submission;
  - f) be governed by English law;
  - g) impose requirements to hold and maintain the specified insurance cover in accordance with the provisions of clause 29.2, where appropriate;
  - h) impose requirements to comply with equalities and health and safety legislation, where appropriate;
  - i) impose requirements to comply with the Council's health and safety policy, where appropriate;

j) give the Council the right to cancel the Contract, and recover from the contractor the amount of any loss resulting from such cancellation, if the contractor, or any person acting on their behalf, shall have, in relation to the Contract or any other Contract with the Council:

(i) offered or given, directly or indirectly, any gift or consideration of any kind to any person as an inducement to do or forbear from doing anything, or as a reward for doing or forbearing from doing anything; or

(ii) committed any offence under the Bribery Act 2010, or given or offered any fee or reward receipt of which is contrary to section 117(2) of the Local Government Act 1972;

k) set out a contractual protocol for dealing with Freedom of Information Act 2000 and Environmental Information Regulations 2004 information requests and, where applicable, obligations under data protection legislation, and enabling compliance with the requirements of any applicable information publication scheme (including the Local Government Transparency Code 2015);

l) reserve rights of audit to the Council where the contractor makes payments to, or collects income on behalf of, the Council;

26.4 ~~Except in exceptional circumstances with the prior written approval of the Chief Executive, all Contracts must be signed or Sealed before their commencement.~~

26.5 Every Contract in excess of £100,000 must contain a comprehensive Business Continuity plan.

26.6 Every contract which exceeds £25,000 in value or amount and is for the provision of works, supplies or services other than at one time shall provide for adequate redress in the event of default by the contractor as agreed by the Chief Legal Officer.

26.7 Every contract over £75,000 shall:

(i) provide for liquidated damages to be paid by the contractor where the terms of the contract are not duly performed if financial loss is likely to arise from delay in performing the contract; and

(ii) provide that where the cost of purchasing other goods, materials or services exceed the amount which would have been payable to the contractor, this amount shall be recoverable from the contractor.

26.8 For threshold 3 contracts the right to terminate the contract where:

(i) the contract has been subject to a substantial modification which would have required a new procurement procedure under regulation 72 Public Contract Regulations 2015 (PCR) or regulation 43 Concession Contract Regulations 2016 (CCR);

(ii) the contractor has, at the time of the contract award, been in one of the situations referred to in regulation 57 PCR 2015 or regulation 38 CCR 2016 (mandatory exclusions) and should have been excluded from the procurement procedure; and

(+)(iii) a UK Court has declared that the contract should not have been awarded to the contractor in view of a serious breach of procurement law. —Every contract shall include a clause allowing the Council to immediately terminate the contract and to recover from the contractor the amount of any loss resulting from the termination of the contract if the contractor shall have offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward for doing

~~or procuring to be done or for having done or having procured to be done any action in relation to the obtaining of the contract or any other contract with the Council or for showing, procuring to show favour or disfavour to any person in relation to the contract or any other contract with the Council or if like acts shall have been done by any person employed by the contractor or acting on his behalf (whether with or without the knowledge of the contractor) or, if in relation to any contract with the Council the contractor or any person employed by him or acting on his behalf shall have committed an offence under the Bribery Act 2010 or shall have given any fee or reward the receipt of which is an offence under section 117 of the Local Government Act 1972.~~

## 27. Sealing and Signing of contracts

- 27.1 ~~Subject to where Committee approval is required in accordance with the Financial Regulations or Terms of Reference of the relevant Committee, c~~Contracts within Threshold 1 shall be the subject of a Purchase Order, ~~which can be approved in accordance with the Financial Regulations. If a Purchase Order is not permitted for the relevant contract unless otherwise stated, in which case~~ a formal Contract shall take account of an appropriate level of legal advice. ~~Heads of Service are permitted to sign the Contract.~~
- 27.2 Contracts within Threshold 2 and 3 shall be the subject of a formal written Contract agreed by the Chief Executive ~~[DELEGATED]~~ and under Seal if required by clause 27.3.
- 27.3 Every contract valued at £750,000 or more shall be sealed with the common seal of the Council provided the award decision has been approved by the relevant committee or officer in accordance with the terms of the constitution.-
- 27.4 For all contracts under £750,000 the awarding officer may sign the contract on behalf of the Council provided the award decision has been approved by the relevant committee or officer in accordance with the terms of the constitution.-

## 28. Novation

- 28.1 Novation refers to where one of the contracting parties in the original contract is replaced by an entirely new party that assumes the rights and obligations of the original party.
- 28.2 Novation is not permitted without the express consent of the Head of Service and Legal Services.

## 29. Financial Security

- 29.1 Adequate financial security and/or a performance bond must be required for all Contracts within Threshold 3.
- 29.2 The Council request the minimum financial cover:
- a) Employers Liability Insurance: £5,000,000
  - b) Public Liability Insurance: £10,000,000
  - c) Professional Indemnity Insurance: £1,000,000
  - d) Product Liability Insurance: Should be proportionate to the product being purchased.
- 29.3 Any variation from 30.2 must be agreed with the Head of Corporate Assurance

**30. Economic and Financial Standing**

- 30.1 The Councils will examine and maintain the credit report of all suppliers to gauge it's economic and financial status.

**Section 5**

**31. Disposal of Land and Property**

- 31.1 All land and property which is considered to be surplus to the Council's service requirements must be notified to the Director of Environment, Housing & Regeneration who will be responsible for the disposal or other reallocation of such land and property in accordance with the Council's Asset Management Strategy.

**32. Disposal of Other Council Assets**

- 32.1 Assets may be declared as being surplus to requirements by a Head of Service who shall assess the value of the assets using such expert assistance as they consider necessary and to dispose of the asset in accordance with this CSO.
- 32.2 The value of an asset shall be the estimated price for which the asset might reasonably be expected to be sold to a willing purchaser in the open market. Similar assets declared surplus to requirements at or about the same time shall be aggregated in value.
- 32.3 Assets having no realisable value or where the costs of disposal is likely to exceed the price received may be disposed of as waste provided that the assets shall be recycled wherever reasonably practical and financially viable.
- 32.4 Assets with a value of £10,000 or less may be sold for the best price possible.
- 32.5 Such assets may be advertised on internet based marketplaces (such as EBay). Where such sites are used, the Chief Finance Officer will nominate a single Council officer to be responsible for the disposal of assets using this method.
- 32.6 In the case of assets valued above £10,000, disposal shall be carried out by inviting bids for the assets through the open procedure or auction.
- 32.7 Council officers or members are not permitted to purchase any Council assets.
- 32.8 Assets which require secure disposal such as computers, tablets, mobile telephones and any other equipment containing personal or confidential material must be disposed of only to an approved contractor. The relevant Head of Service in the case of IT equipment, the Head of ICT, must ensure that the personal information or confidential material is destroyed and documentation confirming this must be obtained from the contractor and retained by the Council.
- 32.9 Where items have to be written off and disposed of the write off must be approved in accordance with the following limits:
- a) for items valued up to £10,000 the relevant Head of Service in consultation with the Chief Finance Officer;
  - b) for items valued between £10,000 and £20,000, Chief Finance Officer in consultation with the relevant committee chairman; and
  - c) for items valued over £20,000 the relevant committee.

**33. Work for Third Parties**

- 33.1 The Director of Corporate Services or Director of Environment, Housing and Regeneration within their respective services must approve the contractual arrangements for any work carried out by the Council for third parties or external bodies.

**34. Partnerships**

- 34.1 Partnerships with other local, public, private, voluntary and community sector organisations will be entered into subject to the approval of the relevant committee who shall agree:
- a) the terms of reference; and
  - b) where appropriate, a scheme of delegation to officers to operate within the partnership.
- 34.2 Unless specifically agreed by the relevant committee, partnership arrangements shall only be entered into in accordance with the provisions of these CSOs.
- 34.3 The heads of terms for all partnership arrangements shall be approved by the relevant committee and full terms and conditions by the relevant committee and the Director of Corporate Services or Director of Environment, Housing and Regeneration within their respective services.
- 34.4 The Director of Corporate Services or Director of Environment, Housing and Regeneration within their respective services shall be responsible for ensuring that adequate arrangements for governance are set up within each partnership entered into. Such arrangements shall include provisions for arranging contracts with external bodies.

**35. Review of these Contract Standing Orders**

These Contract Standing Orders shall be reviewed and updated on a regular basis. Save in the case of revisions to thresholds or otherwise arising out of a change in the law, any changes to these Contract Standing Orders shall be approved and adopted by the Council. Revisions to thresholds or otherwise arising out of a change in the law shall be dealt with by the [Legal Services Manager/Monitoring Officer](#), in consultation with the Chief Finance Officer

**35-36. Council Members and Contracts**

35-136.1 No member shall have authority to enter into any contract on behalf of the Council.

35-236.2 No member shall have authority to issue any instruction or variation to a contractor of the Council.

## Section 6 – Procurement Thresholds and Procedures

This Table provides a quick checklist and guidance for the necessary governance arrangements for authorisations when entering into contracts:

Contract Standing Orders - Procedures for Procurement - minimum requirements											
	Aggregate Value including extensions £	Advertising required	Contract Award notice required	Procurement method	Receipt of quotes	Who is authorised to carry out Procurement	Timescales	Contract Type	Who must approve the contract award	Who signs the contract on the Councils behalf	Audit trail and documentation
Threshold 1	£0-£24,999 Quick Quote (QQ)	No	No	Three (3) quotes	Email	Service Officer	N/A	Purchase Order  (or bespoke contract if appropriate)	Budget holder	Budget holder approves PO	Completed QQ Procurement Report. document To be stored within team drives
Threshold 2	£25,000 to £213,477 Request for Quotation (RFQ)	<ul style="list-style-type: none"> <li>e-Sourcing platform</li> <li>Contracts Finder*</li> </ul>	Yes	Minimum of three (3) quotes*	e-Sourcing platform	Service Officer	Allow 28 Working Days Proportionate the value and complexity of tender	EEBC Standard / JCT /Framework	Head of Service	Head of Service	Completed RFQ Procurement Report. document To be stored within team drives
Threshold 3	Over £213,477 Invitation to Tender (ITT)	<ul style="list-style-type: none"> <li>Contracts Finder</li> <li>Find A Tender Service</li> </ul>	Yes	Goods & Services – Full tender  Works – competitive quotation**	e-Sourcing platform	Procurement and Contracts Manager / Officer	PCR 2015 Timescales	Bespoke EEBC / JCT /Framework call-off agreement	Head of Service Head of Finance Head of Legal & Appropriate Committee	Under £750k - Head of Service  Over £750K – sealed as a Deed by Legal Services	Completed ITT Procurement Report. ITT and Reg 84 document To be stored within eSourcing portal.

If any Officer identified within the 'who must approve the contract' table above is unavailable, the Director of Corporate Services or Director of Environment, Housing and Regeneration within their respective area can act under delegated authority, [in accordance with the scheme of delegation in Appendix 2.](#)

\* RFQ (open) and advertised to the entire market. Contracts Finder opportunity and award notice to be published via eSourcing portal  
RFQ (closed) – Where the opportunity is only shared with a select number of suppliers. Only a Contracts Find award notice is required to be published (within 30-days of contract award) via the Contracts Finder website.

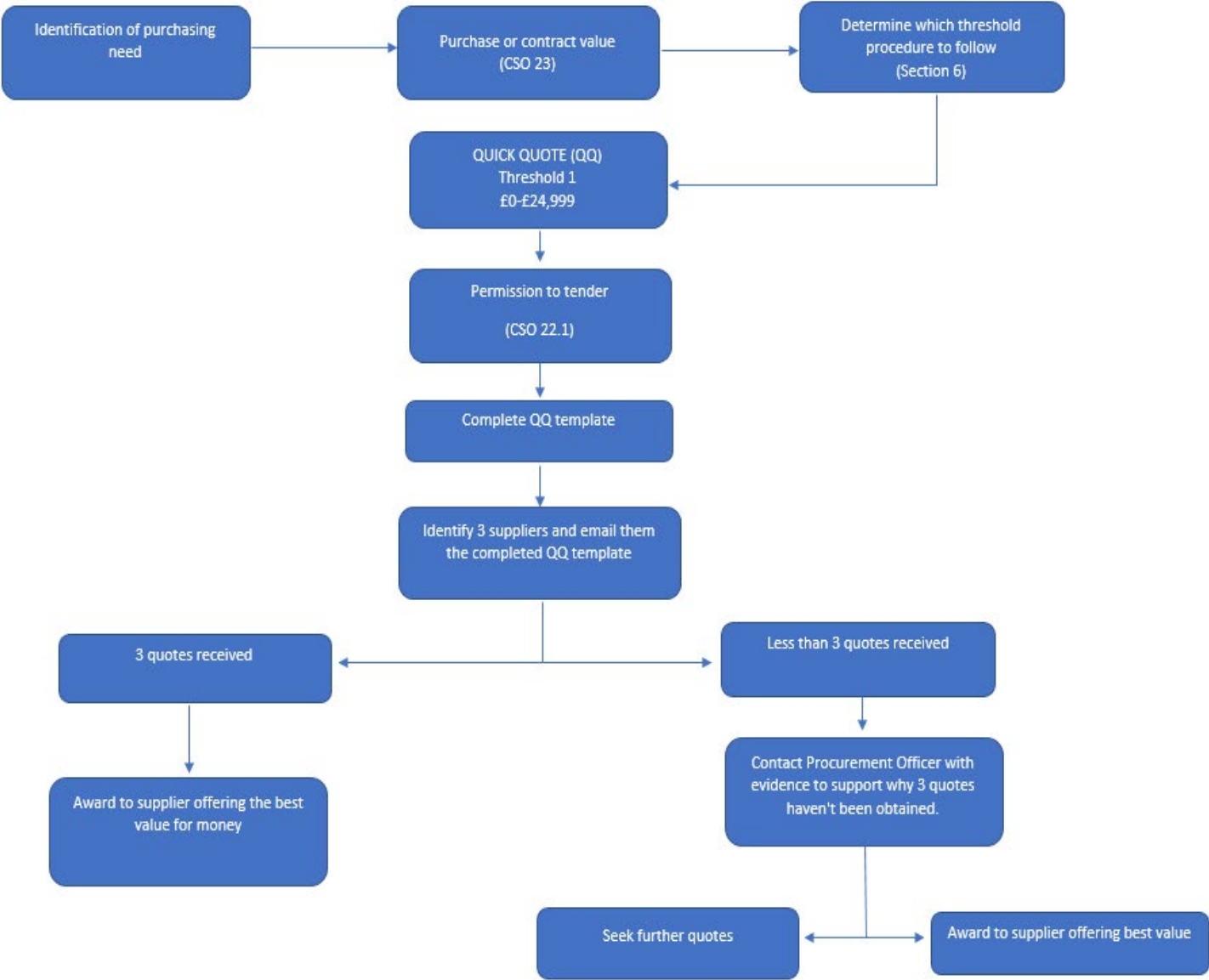
\* 3 quotes must always be requested. In exceptional circumstances where 3 quotes are not received back following a request, permission must be granted by the Procurement Officer to proceed with award.

\*\*Works up to threshold:

- Competitive quotation & Construction Line should be used to select a shortlist of suitable contractors
- Works under threshold: **should follow threshold 2 route.**
- Works over threshold: Full tender

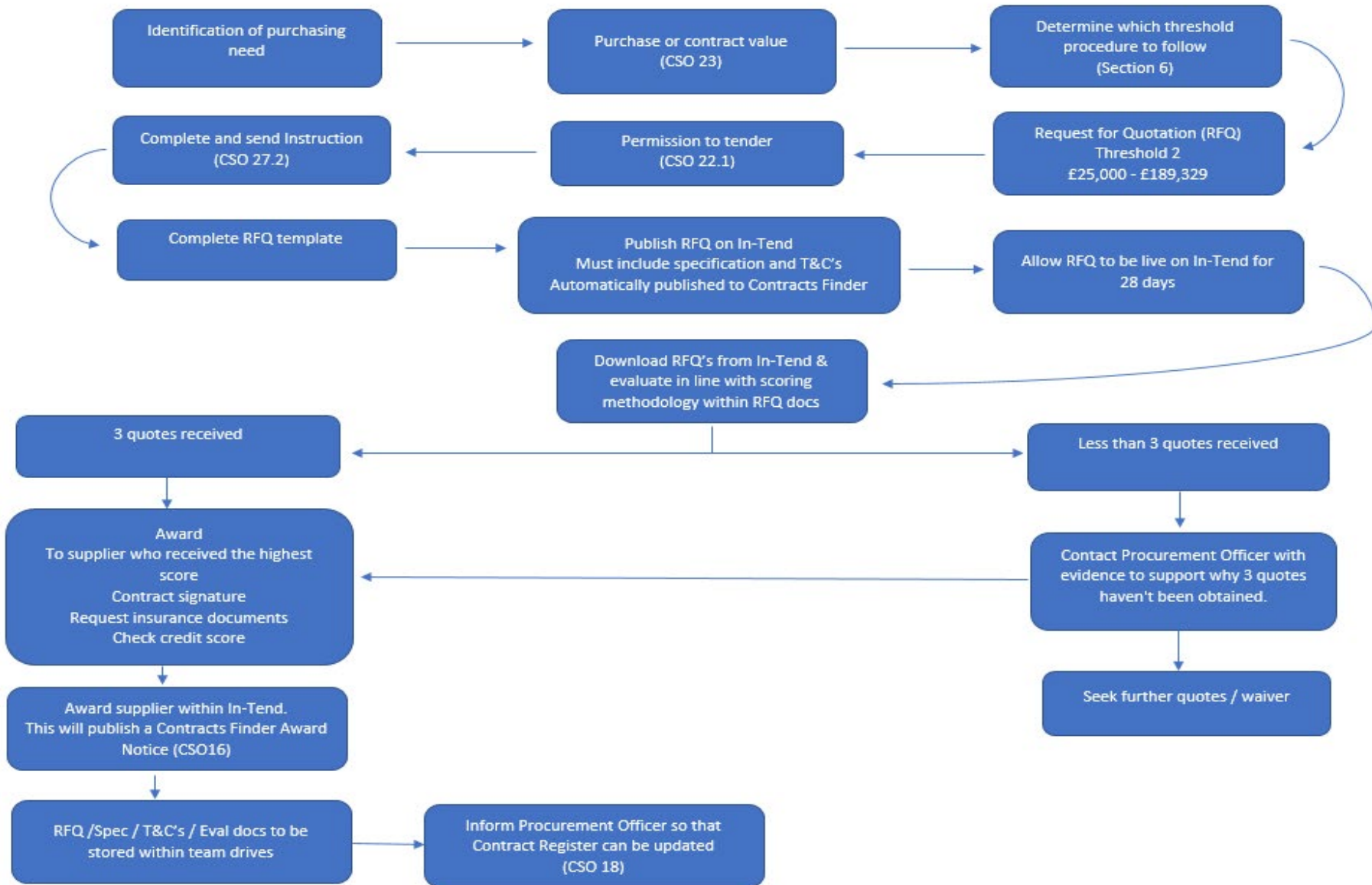
**Annex 1 – Officers Process Guide**

- Quick Quote (QQ)





## Request for Quotation (RFQ)



**Annex 2 – EU Procurement Directive threshold**






The financial thresholds **are inclusive of VAT and** amended, generally every 2 years and the most up to date can be found here: <https://www.ojeu.eu/thresholds.aspx>

<b>Public Contract Regulations 2015</b>		
Supplies and Services		
	Schedule 1 Bodies	£122,976
	All bodies	£213,477
Subsidised Service Contracts		
	All Bodies	£189,330
Works (including subsidised Works Contracts)		
	All Bodies	£5,336,937
Light Touch Regime for Services		
	All Bodies	£663,540
<b>The Utilities Contract Regulations</b>		
Supplies and Services		
	All Sectors	£426,955
Works		
	All Sectors	£5,336,937
<b>The Concession Regulations</b>		
	Concession Regulations	£5,336,937

**Annex 3 – Procurement in the UK regulations:**

1. [Public Contracts Regulations 2015](#)
2. [The Utilities Contract Regulations 2016](#)
3. [The Concession Contracts Regulations 2016](#)
4. [The Public Services \(social value\) Act 2012](#)
5. [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020](#)
6. [Modern Slavery Act 2015](#)
7. [Social Value Act 2012](#)
8. [Local government Transparency Code 2015](#)
9. [Freedom of Information Act 2000](#)
10. [IR35 Guidance](#)
11. [Local Government Act 1999 \(Section 3; best value\)](#)

Annex 4 – Templates

Document	Owner	Note	TEMPLATE
Legal Instruction Form	Legal	<u>For Procurements within Thresholds 2 &amp; 3</u>  Legal Services should be instructed, using the Legal Instruction Form at the Officers earliest opportunity. By not doing so, your Project may be delayed significantly.	 Instructions to Legal Form.docx
Waiver Request Form	Procurement	Officers must obtain approval for a Waiver by completing the 'Waiver Request Form' document the reason for which the waiver is sought, including justification and risk.	 EEBC Waiver Request Form - TEM
Quick Quote (QQ)	Service	Officers procuring through Threshold 1 should use this template to seek Quotations.	 EEBC - Quick Quote (QQ) - Threshold 1.d
Request for Quotation (RFQ)	Service	Officers procuring through Threshold 2 should use this template to seek Quotations.	 EEBC - Request For Quotation (RFQ) - (TI
In-Tend user Guides	Procurement	Instructions to use In-Tend	 eTendering - User Guide - v3.4.pdf

## Annex 5.3 – Sealing and Signing Council Documents

### 1. Custody of Seal

- 1.1. The Common Seal of the Council shall be secured by a lock and keys and the Head of Legal Services shall be person responsible for it.

### 2. Sealing of documents

- 2.1. The Common Seal of the Council shall not be affixed to any document or deed unless the sealing has been authorised by a resolution of the Full Council, or of a committee or officer to which the Council has delegated its powers in this behalf. A decision of the Council, including decisions under delegated powers- authorising the acceptance of any tender, the purchase, sale, letting, or taking of any property, the issue of any stock, the presentation of any petition, memorial, or address, the making of any rate or contract, or any other matter or thing, shall be a sufficient authority for sealing any document necessary to give effect to the decision.
- 2.2. The seal shall be attested by an Authorised Officer (namely the Chief Executive, Director of Corporate Services, Director of Environment, Housing and Regeneration, or the Head of Legal Services). The sealing and execution of documents can be delegated ~~further by an Authorised Officer~~ in accordance with ~~the Officer Scheme of Delegation~~ [Appendix 2](#). The Common Seal of the Council may be affixed either by physical means or by such electronic means as the Head of Legal Services may from time to time authorise. The affixing of an electronic seal shall be of the same legal effect as affixing the Common Seal of the Council physically. An entry of every sealing of a document or deed shall be made, and consecutively numbered, in a book to be provided for the purpose and shall be signed by the person or persons who shall have attested the seal.

### 3. Signature of Documents

- 3.1. Where it is a necessary step in legal procedure or proceedings for any document, it shall be signed by the Chief Executive, Director of Corporate Services, Director of Environment, Housing and Regeneration or the Head of Legal Service (or other person authorised by them), unless:
  - i. Any enactment otherwise requires or authorises.
  - ii. Full Council, a committee, or sub-committee to which the Full Council has delegated its powers, has given the necessary authority to some other person for the purpose of such proceedings.

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## Annex 6.2 - Complaints Process

1. If you would like to submit a comment, compliment ~~or~~ complaint regarding the work of the council, you can do so online via the council's website: ~~Comments, compliments and complaints~~[Comments, compliments or complaints.](#)
2. Alternatively, you can write to Customer Services at the address below, or come in person to:  

Epsom & Ewell Borough Council  
Town Hall  
The Parade  
Epsom  
Surrey  
KT18 5BY
3. If your complaint is about a councillor, please refer to the Members' Code of Conduct (see [Constitution](#), Appendix 1).
4. ~~If you have complained to the council in relation to a Complaints-related to-~~ data handling / processing, data protection ~~and~~ information governance ~~matter and are not satisfied with the final outcome, you can~~ ~~can also be-~~ ~~made~~[complain](#) to the Information Commissioner's Office ("ICO"). Details can be found on the ICO's website:

[ICO – Make a complaint](#)





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## COUNCILLOR CODE OF CONDUCT

**Head of Service:** Andrew Bircher, Interim Director of Corporate Services

**Wards affected:** (All Wards);

**Appendices (attached):**

### Summary

This report considers the Councillor code of conduct, which has been reviewed by the Constitution Working group (CWG), and makes a recommendation for adoption.

### Recommendation (s)

#### The Committee is asked to:

- (1) Recommend to Full Council that the Local Government Association Model Code of Conduct 2020 is adopted in its entirety.**

## 1 Reason for Recommendation

- 1.1 The CWG has reviewed the code of conduct and is recommending to the Standards and Constitution Committee and then to Full Council that the LGA model code of conduct should be adopted in its entirety.

## 2 Background

- 2.1 EEBC's current Members Code of Conduct was last updated in 2019.
- 2.2 In December 2020, the Local Government Association (LGA) developed and published a Model Councillor Code of Conduct in association with key partners and following extensive consultation with the sector, to which EEBC's Standards Committee responded. This was in response to the recommendation of the Committee of Standards in Public Life (CSPL) Local Government Ethical Standards 2019. The code was part of the LGA's work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance, and their Civility in Public Life programme.
- 2.3 The code is a template for Local Authorities to adopt in whole or with amendments to take into account local circumstances.

- 2.4 The LGA's aim was to make the code relatively short and easy to read rather than an overly-complex legal document as it needed to be accessible to Councillors, officers, and the public alike. The consultation response also asked for supporting guidance to help understand some of the key provisions in greater depth with examples and case illustrations.
- 2.5 The guidance is a detailed publication which is aimed to help understanding and consistency of approach towards the code. It is not reproduced here in this report but the link can be found at the end of this report.
- 2.6 The code, together with the supporting guidance, have been designed to protect the democratic role, encourage good conduct, and safeguard the public's trust and confidence in the role of Councillor in local government. While it sets out the minimum standards of behaviour expected, together with the guidance, it is designed to encourage Councillors to:
- model the high standards expected of Councillors,
  - be mutually respectful even if they have personal or political differences,
  - provide a personal check and balance,
  - set out the type of conduct that could lead to complaints being made of behaviour falling below the standards expected of Councillors and in breach of the code,
  - protect Councillors, the public, local authority officers and the reputation of local government.
- 2.7 The LGA will undertake an annual review of this guidance and the code to ensure it continues to be fit for purpose, incorporating advances in technology, social media, case law and changes in legislation. The latest version on the LGA website is updated 17 May 2021 and is the version shown in the appendix.
- 2.8 The current EEBC Code of Conduct is compliant with regulation, but during the review of the Constitution in 2022, Standards and Constitution Committee asked the CWG to consider whether it was fit for purpose.
- 2.9 The CWG has debated whether to adopt the LGA version, retain our existing Code of Conduct for Members, or to create a local version of the code. They considered both of the codes and the LGA Code of Conduct Survey.

- 2.10 The group decided that the LGA Code had been written by experts and had cross party support. It was also felt that as this was a scheme adopted by so many councils it was tried and tested. Some councils had adopted the LGA Code with modifications or amendments. The CWG decided that there was little merit in making amendments as for a borough of our size it was prudent to adopt what was considered to be national best practice rather than creating our own unique content. Their recommendation is that the Council adopts the LGA code unaltered.
- 2.11 One of the CSPL's best practice recommendations is that councils should review their Code of Conduct annually and regularly seek, where possible the views of the public, community organisations and neighbouring authorities. Given the wide-reaching and extensive consultation conducted by the LGA, it is not recommended that further consultation is currently required. As noted above, the LGA has committed to an ongoing and at least annual review of their Model Code. On that basis, it is suggested that this Committee carries out an annual light touch health check upon the publication of the LGA annual review.

### **3 Risk Assessment**

#### Legal or other duties

#### 3.1 Equality Impact Assessment

- 3.1.1 An EIA has not been done for this report but the LGA code of conduct sets out behaviours which help to support the way communities of all types are treated and included.

#### 3.2 Crime & Disorder

- 3.2.1 There are none that arose from this report.

#### 3.3 Safeguarding

- 3.3.1 There are none that arise from this report.

#### 3.4 Dependencies

- 3.4.1 This is linked to the constitution and there are background papers shown below.

#### 3.5 Other

- 3.5.1 None.

### **4 Financial Implications**

- 4.1 There are no direct financial implications of the report recommendations.

- 4.2 **Section 151 Officer's comments:** None arising from the contents of this report.

## 5 Legal Implications

- 5.1 Under the Localism Act 2011, all councils must adopt a code of conduct dealing with the conduct that is expected of members.
- 5.2 This Committee is responsible for Standards functions as set out in the Constitution. This includes advising the Council on codes of conduct and making arrangements under which allegations may be investigated. Changes to the Code of Conduct and the Constitution are, however, decisions reserved to full Council.
- 5.3 **Legal Officer's comments:** None arising from the contents of this report.

## 6 Policies, Plans & Partnerships

- 6.1 **Council's Key Priorities:** The following Key Priorities are engaged:
- Ensuring a transparent and fair process for engaging with councillors as well as effective council.
- 6.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.
- 6.3 **Climate & Environmental Impact of recommendations:** None.
- 6.4 **Sustainability Policy & Community Safety Implications:** None
- 6.5 **Partnerships:** None

## 7 Background papers

- 7.1 The documents referred to in compiling this report are as follows:

### **Previous reports:**

- none

### **Other papers:**

<https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct>

The LGA published a Code of Conduct Survey – Research Report in July 2023 (2023 LGA Code-of-Conduct-Survey-Research-Report-July-2023-AA.pdf)

## Appendix 1 - Code of Conduct for Members

1. Purpose of the Code
2. Principles of Public Life at Epsom & Ewell Borough Council
3. Interests
4. Gifts & Hospitality
5. Dispensations
6. Complaints Process

### Annexes

1. Glossary
2. Pecuniary Interests

<b>1</b>	<b>Purpose of the Code</b>
----------	----------------------------

- 1.1 The Localism Act 2011 requires this Authority to promote and maintain high standards of conduct by its Members. In discharging its duty, the Authority is required to adopt a Code of Conduct, which sets out the conduct expected of its Councillors.
- 1.2 The purpose of this Code of Conduct is to assist all Members in the discharge of their obligations to the Authority, to their constituents and to the public at large by:
  - a. establishing the standards and principles of conduct expected of all Members in undertaking their duties;
  - b. ensuring public confidence in the standards expected of all Members and in the commitment of the Authority to upholding the Code through an open and transparent process.
- 1.3 In the interests of clarity, all references in this Section of Part 5 to the 'Authority' will mean Epsom & Ewell Borough Council as a corporate entity. Any references to 'council' will mean the elected Members of the council and any reference to 'Full Council' will refer to the Members sitting as a decision making body.

### To what does the Code apply:

- 1.4 Any reference to "member" in this Code is taken to apply to elected Members of Epsom & Ewell Borough Council. The Authority does not have any co-opted Members, however, if any are appointed, this Code will apply to them.
- 1.5 All elected Members of the Authority must give a written undertaking to abide by the "Code of Conduct for Members" when taking office or on appointment.

**To whom does the Code apply:**

- 1.6 The Code applies to a Member's conduct, which relates in any way to their membership of the Authority. The Code does not seek to regulate the conduct of Members in their purely private and personal lives or in the conduct of their wider public lives unless such conduct significantly damages the reputation and integrity of the Authority as a whole or of its Members generally.

**What are the Principles of Public Life?**

- 1.7 The Seven principles of public life, sometimes referred to as the 'Nolan Principles' apply to anyone who works as a public office-holder. This includes people who are elected or appointed to public office, nationally and locally, and all people appointed to work in in the public sector. The principles also apply to all those in other sectors that deliver public services. The application of the Nolan Principles to the Code are further enhanced by the addition of two new principles, to which the Authority also works. These Nine Principles are the Principles of Public Life at Epsom & Ewell Borough Council.

**What Interests do Members have to declare?**

- 1.8 The Localism Act 2011 requires the Authority to establish and maintain a register of interests of the members of the council. The Register of Members' Interests is published on the council's website and will be maintained by the Monitoring Officer.
- 1.9 In addition to disclosable pecuniary interests, in the interests of transparency, personal interests as specified in the Code, must be notified to the Monitoring Officer and declared at meetings. Any decision-making Member with a prejudicial interest must ensure they comply with the requirements of the Code.

<b>2</b>	<b>Principles of Public Life at Epsom &amp; Ewell Borough Council</b>
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- 2.1 Local government impacts the lives of citizens every day. The proximity of local government to local people means the decisions of local authorities can directly affect a citizen's quality of life. As such it is accepted and expected that high standards of conduct are needed to protect the integrity of decision making to maintain public confidence and to safeguard local democracy.
- 2.2 When acting as a Member of the council, Members must observe this Code in such a manner that complies with the Nine Principles of Public Life. These Nine Principles will be taken into account when considering the investigation and determination of any allegations of breaches of the Rules of Conduct. A breach of any of the Nine Principles will be seen as breach of the Code.
- 2.3 The Nine Principles of Public Life are:



<b>Principle</b>	<b>Behaviours</b>
1: Selflessness	Members should take decisions 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.
2: Integrity	Members should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
3: Objectivity	In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Members should make choices on merit.
4: Accountability	Members are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
5: Openness	Members should be as open as possible about their actions and those of the council, and should be prepared to give reasons for those actions.
6: Honesty	Members 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.
7: Leadership	Members should promote and support these principles by Leadership, and by example, and should act in a way that secures or preserves public confidence
8: Duty to uphold the law	Members must act to uphold the law and act on all occasions in accordance with the trust that the public has placed in them.
9: Stewardship	In discharging their duties and responsibilities Members must ensure that the council's resources are used both lawfully and prudently.

2.4 It is not the role of the Code to set out prescriptive 'dos' and 'don'ts'. The Nine Principles and the corresponding behaviours set the necessary context and framework for how Members should conduct themselves when the Code applies. However, it can be helpful to provide some examples, by way of illustration, of how the Code operates:

- a. championing the public interest, taking into account the needs of your

constituents, including those that did not vote for you, and the community as a whole;

- b. exercising independent judgement and not compromising your position by allowing individuals or organisations to improperly influence you in the performance of your official duties by means of any financial or other obligations;
- c. listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, and making decisions on merit;
- d. restricting access to information when the wider public interest or the law requires it, and not disclosing confidential information, unless you are entitled to by law. Please refer to the Monitoring Officer if you are unsure;
- e. behaving in accordance with all of the council's legal obligations, alongside any requirements contained within the council's policies, protocols or procedures, including on the use of the council's resources;
- f. ensuring that, when using or authorising the use by others of the resources of the Council, such resources are not used improperly for political purposes (including party political purposes) and having regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986;
- g. valuing your colleagues and officers of the council and engaging with them in an appropriate manner and one that underpins the mutual respect that is essential to good local governance;
- h. not bullying, harassing (including sexually harassing), intimidating or attempting to intimidate any person;
- i. not doing anything which could reasonably be regarded as bringing your office or the Authority into disrepute;
- j. registering and declaring any private interests, both pecuniary and non-pecuniary, that relate to your public duties in a manner conforming with the Authority's procedures;
- k. understanding your role as a data controller which includes the use of your council email address for council business or constituents' casework;

2.5 Where a Member is elected, appointed or nominated by the council to serve:

- a. on another Relevant Authority, or any other body, when acting for that other authority or body, the Member must comply with the code of conduct of that other authority or body if required to do so, save so far as any conflict may arise, in which case this Code takes primacy; or
- b. on any other body which does not have a code relating to the conduct of its members, the Member must, when acting for that other body, comply

with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

- 2.6 Members must ensure that all contact with council Officers will comply with the protocol for Managing Member/Officer Relations. A distinction is made between contact with less senior staff as part of day to day enquires and council business and contact by members where contentious or political issues may arise. The table below sets some examples:

<b>Examples of day to day contact with less senior Officers.</b>	<b>Examples of matters which should be addressed at Head of Service or above</b>
Requests for routine information on a case or issue on behalf of a resident, e.g. who is dealing with a case or issue, and when it may be resolved.	Concerns around the application of a threshold or the entitlement to a service.
Requests for information on timescales of applications e.g. planning applications, licensing, housing allocation	Specific complaints about not granting consent or complaints about the application of eligibility criteria.
Requests for information on how processes work.	Suggestions for improving or changing services.

### 3

### Interests

#### General

- 3.1 As a public figure, a Member's public role may, at times, overlap with their personal and/or professional life and interests, however when performing a public role as a Member, you must:
- a. act solely in terms of the public interest, and
  - b. not act in a manner to gain financial or other material benefits for yourself, your family, your friends, your employer or in relation to your business interests.
- 3.2 Members shall fulfil conscientiously the requirements in respect of the registration and declaration of interests.
- 3.3 Members shall always be open and frank in drawing attention to any relevant interest in any proceeding of the council or its Committees, and in any communications with Members, public officials or public office holders. Members are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office as Members. Interests must be recorded and be capable of audit.

### **Notification & Registration of Member's Interests**

- 3.4 A Member must, within 28 days of this Code being adopted or applied by the Authority or becoming a Member, notify the Monitoring Officer of any disclosable pecuniary interest (DPI) as defined by regulations made by the Secretary of State, through the completion of the Declaration of Interests Form.
- 3.5 A Member, must within 28 days of becoming aware of any new disclosable pecuniary interest or change to any disclosable pecuniary interest already registered, provide written notification to the Monitoring Officer via an amendment form obtainable from the Monitoring Officer. The Monitoring Officer shall, subject to the provisions on Sensitive Interests, enter any amendments.
- 3.6 A Member must observe the notification provisions relating to interests, which arise at meetings as provided for by this Code.

### **Disclosable Pecuniary Interests**

- 3.7 A Member will have a disclosable pecuniary interest in any matter to be considered or being considered by the council if it is of a description set out at Annexe 2 and either:
- a. it is the Member's interest, or
  - b. it is an interest of
    - (i) the Member's spouse or civil partner;
    - (ii) a person with whom the Member is living as husband and wife, or
    - (iii) a person with whom the Member is living as if they were civil partners and the Member is aware that that other person has the interest.
- 3.8 A Member must comply with the statutory requirements to register, disclose and withdraw from participating and voting in respect of any matter in which a Member has a disclosable pecuniary interest.

### **Personal Interests**

- 3.9 A Member will have a personal interest in any matter to be considered or being considered by the Council where that interest is not a DPI in that matter and, either:
- a. the matter relates to or is likely to affect:
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

- (ii) any body
  - (aa) exercising functions of a public nature;
  - (bb) directed to charitable purposes; or
  - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- b. a decision in relation to that matter might reasonably be regarded as affecting a Member's well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

3.10 For the purpose of paragraph 3.9(b), a "relevant person" is

- a. a member of the Member's family or any person with whom the Member has a close association; or
- b. any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- c. any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- d. any body of a type described in Paragraph 3.9 a. (i) and (ii) above of which such persons are members or in a position of general control or management.

3.11 For the purpose of paragraph 3.10 a., "Family member" is for the time being defined as a spouse, partner, parent, parent in law, son, daughter, step son, stepdaughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and partner means a member of a couple who live together.

### **Prejudicial Interests**

3.12 Where a Member has a **personal interest** in any matter to be considered or being considered by the council, that Member will also have a prejudicial interest in that matter where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice a Member's judgment of the public interest and where that matter:

- a. affects a Member's financial position or the financial position of a person or body described in the paragraphs relating to Personal Interests above, or

- b. relates to the determining of any approval, consent, licence, permission, or registration in relation to you or any person or body described in paragraphs relating to Personal Interests above.
- 3.13 A personal interest in any matter to be considered or being considered by the council is not a prejudicial interest where that matter relates to the functions of the council in respect of:
- a. housing, where you are a tenant of the council provided that those functions do not relate particularly to your tenancy or lease;
  - b. 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;
  - c. an allowance, payment or indemnity given to Members;
  - d. any ceremonial honour given to Members;
  - e. setting council tax or a precept under the Local Government Finance Act 1992

#### **Sensitive Interests**

- 3.14 Where a Member has an interest (whether or not a disclosable pecuniary interest) and the nature of it is such that the Member and the Monitoring Officer consider that disclosure of the details of the interest could lead to the Member or a person connected with that Member being subject to violence and intimidation if the interest is entered on the Declaration of Members Interests Form, then such interest will not be published. Instead it may be recorded the details of the interest are withheld under section 32(2) of the Localism Act 2011.
- 3.15 Where a Member has an interest in any business of the council which would be disclosable but the details of the interest are not registered in the council's published Register of Members Interests because they are classed as Sensitive Interests, a Member need not disclose the nature of the interest to the meeting.
- 3.16 A Member with a Sensitive Interest must, within 28 days of becoming aware of any change of circumstances, which means that information is no longer sensitive information, must notify the Monitoring Officer, asking that the information be included in the Register of Interests.

## Disclosure and participation at Meetings

### General Principles

- 3.17 At a meeting where a Member is being asked to make a relevant decision, or is speaking, a Member must not compromise any of the Nine Principles when arriving at or making such a decision.
- 3.18 Members should declare any personal and/or professional interests relating to their public duties and must take steps to resolve any conflicts arising in a way that protects the public interest. This includes the declaration of acceptance of any disclosable gift or hospitality at any discussion of, vote on, or discharge of any function relating to the donor.
- 3.19 Members should seek advice in advance of a meeting when a matter is known or should reasonably have been known to involve an interest affecting a Committee Member and complete the Declaration of Interests at Meetings Form.
- 3.20 A declaration of an interest made at any meeting relating specifically to a particular issue under consideration shall be recorded. The declaration shall appear in the minutes of the meeting and will be published on the council's website.

### Declaration of Members Interests

- 3.21 All Members are required to disclose as appropriate any personal and personal prejudicial interests in matters that arise at meetings which might influence their judgement or which could be perceived (by a reasonable member of the public) to do so. Members should declare:
- a. relevant personal direct and indirect pecuniary interests;
  - b. relevant direct and indirect pecuniary interests of close family members of which Members could reasonably be expected to be aware; and
  - c. relevant personal non-pecuniary interests, including those which arise from membership of clubs and other organisations;
  - d. any body of which the Member is a member or in a position of general control or management and to which you are appointed or nominated by your authority;
  - e. any body for which the Member works (paid or unpaid) exercising a function of a public nature, directed to charitable purposes or whose principal purpose includes the influence of public opinion or policy.
- 3.22 The personal interest becomes **prejudicial**, if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice your judgement of the public interest. A Member's DPIs are always prejudicial.

- 3.23 A Member must observe the restrictions the council places on their involvement in matters where they have a pecuniary or non-pecuniary interest as defined by the council.

### **Predetermination or Bias**

- 3.24 Where a Member has been involved in campaigning in their political role on an issue which does not impact on their personal and/or professional life, they are not prohibited from participating in a decision in their political role as Member. However, Members should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence the Member in the performance of their official duties.
- 3.25 When making a decision, Members must consider all the matters with an open mind and on the facts presented at the meeting at which the decision is to be taken.
- 3.26 Members who sit as committee members need to be aware that when they have an interest in the matter being discussed or being decided, the role as a decision maker is subject to extra scrutiny.
- 3.27 Members who are not committee members, but are attending a committee to speak, also need to be aware that if they have an interest in the matter they are speaking on, their role as an interested member is also subject to extra scrutiny.

### **Interests arising in relation to Scrutiny Committee**

- 3.28 Members have a prejudicial interest in any business before a Scrutiny Committee where:
- a. that business relates to a decision made (whether implemented or not) or action taken by any of the council's policy committees or another committee, sub-committee, joint committee; and
  - b. at the time the decision was made or action was taken, the Member was a member of a policy committee, or other committee, sub-committee, joint committee mentioned in paragraph (a) and they were present when that decision was made or action was agreed or taken.
- 3.29 A Member with a prejudicial interest may only address a meeting of the Scrutiny Committee, to answer any questions once they have declared the nature of the interest they have, which they must do at the earliest opportunity. They must withdraw from the room where the meeting is being held once they have answered any questions.



### **Action following declaration**

- 3.30 If a Member is acting as a decision maker at a meeting where the Member has an Interest in the matter being discussed or that arises during the course of the meeting, the Member needs to consider if the interest is a Disclosable Pecuniary Interest and or a prejudicial interest.
- 3.31 If the interest is either a DPI or a prejudicial interest:
- a. the Member must withdraw from the room where the meeting considering the business, is being held, unless a written Dispensation has been granted;
  - b. the Member is not permitted to participate in any discussion of a matter that relates to the Member's DPI or prejudicial interest at the meeting;
  - c. the Member is not permitted to participate in any vote on the matter where they have a DPI or prejudicial interest.
- 3.32 In the case of any other Pecuniary or Non-Pecuniary Interest, the Member will need to consider whether a member of the public with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice the Member's judgement of the public interest. If a Member believes this to be the case, or is advised that this is the case, they must as soon as possible:
- a. disclose the existence and nature of the interest at the meeting;
  - b. withdraw from the room where the meeting considering the business is being held.
- 3.33 However, provided the public have a right to speak at such a meeting the Member is able to make representations or answer any questions when the nature of the interest has been declared. The Member must, after they have spoken, immediately withdraw from the room where the meeting is being held.

### **Other decision-making**

- 3.34 Certain types of decisions, including those relating to a permission, licence, consent or registration for a Member, their friends, family members, employer or their business interests, are so closely tied to their personal and/or professional life that their ability to make a decision in an impartial manner in their role as a Member may be called into question. In turn this could raise issues about the validity or veracity of the decision of the council. In such situations, Members have the same rights as an ordinary members of the public, which means they cannot take part or have any role in the decision making process.

## **4 Dispersations**

- 4.1 There are some decisions that the Authority will need to make that could affect every Member. A 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 Member to participate in any discussion and/or vote on that matter at a meeting. Such request must be on the prescribed form. Members may not take part in any matter unless a general or specific dispensation has been granted.
- 4.2 The Council can grant a dispensation to enable Members to participate in certain circumstances and the Monitoring Officer is authorised to determine all such written requests for a dispensation.
- 4.3 The Monitoring Officer may, after having had regard to all relevant circumstances, grant a dispensation to a Member only if they consider that:
- a. without the dispensation 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. without the dispensation considers that without the dispensation each member of a committee would be prohibited from participating in any particular business to be transacted by that committee in relation to the matter;
  - c. considers that it is otherwise appropriate to grant a dispensation.
- 4.4 Any dispensation granted will specify the period for which it has effect, and the period specified may not exceed four years.

## **5 Gifts and Hospitality**

- 5.1 Members should exercise the utmost care in relation to hospitality or gifts received in their role as a Member as there could be a real or perceived conflict with their membership of the Council. Members should declare any gift or hospitality with a value of £100 or above to the Monitoring Officer using the prescribed form and these declarations will be included in a register maintained by the Monitoring Officer. All entries on the Gifts & Hospitality Register will be retained for 4 years. Gifts from other Authorities over the value of £100 (paragraph 5.2 (e) below), will need to be declared and an assessment will be made as to whether the gift should be retained by the Council.

- 5.2 The following gifts and types of hospitality do not need to be disclosed/registered:
- a. civic hospitality provided by another public authority;
  - b. modest refreshment in connection with any meeting or on the occasion of any accidental social meeting;
  - c. tickets for sporting, cultural and entertainment events which are sponsored by the council;
  - d. Honorary Membership badges for the annual horse racing season at Epsom Downs Racecourse or hospitality at the Derby or Ladies Day race events, provided to Members of the Epsom and Walton Downs Conservators or Members appointed to the Training Grounds Management Board;
  - e. small gifts of intrinsic value below £100, modest souvenir gifts with a value below £100, from another public authority given on the occasion of a visit by or to that Authority.
- 5.3 A Member should never accept any gift or hospitality as an inducement or reward for anything, if acceptance might be open to misinterpretation or which puts the Member under an improper obligation. A Member should never solicit a gift or hospitality.
- 5.4 Where it is impracticable to return any unsolicited gift, or the return would cause offence, the Member must, as soon as practicable after the receipt of the gift notify the Monitoring Officer in writing on the prescribed form, and pass the gift to the Mayor's Office for donation to a charity raffle as appropriate.
- 5.5 Even if the value of an unsolicited gift or hospitality is less than £100, if the Member is concerned that its acceptance might be misinterpreted, the Member may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.
- 5.7 A Member must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to a Member.
- 5.8 A Member's participation in any item of business:
- a. in which the Member has any other interest; or
  - b. that affects a donor from whom the Member has received any gift or hospitality

that is registered, or ought to be registered as set out above, will need to be considered by the Member on a case by case basis. A Member will only be expected to exclude themselves from speaking or voting in exceptional

circumstances, for example where there is a real danger of bias.

## **6 Complaints Process**

### **Overarching Principles**

- 6.1 This Part of the Code sets out how the Authority will deal with allegations of a failure to comply with the council's Code of Conduct for Members.
- 6.2 The Monitoring Officer may investigate a specific matter relating to a Member's adherence to the Nine Principles or a complaint made against a member for breach of the Code. For the avoidance of doubt any decision of the Monitoring Officer on any matter within their remit, will be final.
- 6.3 Members shall cooperate, at all stages, with any investigation into an allegation of adherence or complaint of breach of this Code. No Member shall lobby a member of the Standards Committee in a manner calculated or intended to influence its consideration of an alleged breach of this Code.

### **Complaints against Members**

- 6.4 All complaints against Members must be in writing and on the council's prescribed form. The Council will not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 6.5 The Monitoring Officer will use a number of criteria for assessing complaints, and may consult with the Independent Person and if necessary, the appropriate Party Leader or Group Chairman and/or Party Whips/the Chairman of the Strategy & Resources Committee. The decision whether to investigate a complaint will be proportionate to the issues raised and the likely outcomes.
- 6.6 The Monitoring Officer may determine that an allegation does not merit an investigation or further action, where:
- a. the allegation does not demonstrate a breach of the Code of Conduct; for example it relates to a Member's private life to which the Code does not apply or it's about dissatisfaction with a council decision or service, or
  - b. it is about someone who is no longer a Member of the Council, or
  - c. there is insufficient evidence upon which to investigate and/or the person making the allegation has failed to co-operate with the Monitoring Officer to specify the allegations sufficiently, or
  - d. the same or similar allegation has been investigated and determined, or

- e. it is an anonymous allegation which does not include sufficient documentary evidence to indicate a significant breach of the Code of Conduct, or
  - f. the Monitoring Officer facilitates an informal resolution without the need for a formal investigation, or
  - g. the complaint is considered to be vexatious.
- 6.7 The Monitoring Officer will acknowledge receipt of a complaint within 10 working days of receiving it. The Subject Member will be advised that a complaint has been made, a copy of the complaint or a summary as appropriate will be provided, along with details of the complainant.
- 6.8 The Monitoring Officer will determine as to whether the complaint merits formal investigation in accordance with the requirements of this Part of the Code. This decision will normally be taken within 15 working days of receipt of a complaint. Where the Monitoring Officer has taken a decision, the Complainant and the Subject Member will be informed of the decision along with the reasons for such.
- 6.9 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. The Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.
- 6.10 If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

### **Investigation & Determination of Complaints**

- 6.11 If the Monitoring Officer decides that a complaint merits formal investigation, the Monitoring Officer will appoint an Investigating Officer. Such officer does not have to be an employee of the Authority.
- 6.12 The Investigating Officer would normally write to the Subject Member, providing with a copy of the complaint. The Subject Member will be requested to provide any relevant information the Investigating Officer needs to investigate the Complaint.
- 6.13 In exceptional cases, where it is appropriate to keep the identity of the Complainant confidential, or disclosure of details of the complaint to the Subject Member might prejudice the investigation, the Monitoring Officer may withhold the Complainant's details or delay notifying the Subject Member until the investigation has progressed sufficiently.
- 6.14 At the end of their investigation, the Investigating Officer will produce a draft report. This draft will be sent in confidence to the Complainant and the Subject Member, to give them an opportunity to identify any matter in that

draft report which is either factually incorrect or which may require further consideration. Having received and taken account of any comments on the Draft Report, the Investigating Officer will send the Final Report to the Monitoring Officer.

- 6.15 The Monitoring Officer will review the Investigating Officer's report and, if satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer, will write to the Subject Member and the Complainant notifying them of either:
- a. that no further action is required, and provide them both a copy of the Investigating Officer's final report, or
  - b. following review of the Investigating Officer's report, that either the complaint will be:
    - (i) sent for determination before a Standards Hearing Sub Committee, or
    - (ii) after consulting the Independent Person, seek a local resolution.

The Monitoring Officer will not enter into any correspondence with either party which seeks to challenge such a decision.

### **Local Resolution**

- 6.16 The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, the Monitoring Officer will consult with the Independent Person and seek to agree fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Subject Member accepting that their conduct was short of the standard expected, offering an apology, and/or other remedial action by the Authority. If the Subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee as part of an update report for information, but will take no further action.

### **Process for the Determination of Complaints**

- 6.17 If the Monitoring Officer considers that local resolution is not appropriate, then the Monitoring Officer will convene a Standards Hearing Sub Committee to determine the complaint. The Sub Committee will conduct a hearing to decide whether the Subject Member has failed to comply with the Code of Conduct and if so, whether to take any action in respect of the Subject Member.
- 6.18 The Monitoring Officer will conduct a "pre-hearing process", requiring the Subject Member to give their written response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and may issue directions as to the manner in which the hearing will be conducted.

### **Conduct of a Sub Committee Hearing**

- 6.19 The Monitoring Officer will present the Investigating Officer's report to the Sub Committee.
- 6.20 The Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the Subject Member has failed to comply with the Code of Conduct. The Subject Member will then have an opportunity to give their evidence, to call witnesses and to make representations to the Sub Committee as to why they consider that they did not fail to comply with the Code of Conduct.
- 6.21 If the Sub Committee, with the benefit of any advice from the Independent Person, concludes:
- a. that the Subject Member did not fail to comply with the Code, then they can dismiss the complaint, or
  - b. that the Subject Member did fail to comply with the Code, the Chairman will inform the Subject Member of this finding and the Sub Committee will then consider what action, if any, the Sub Committee should take as a result of the Subject Member's failure to comply with the Code. In doing this, the Sub Committee will give the Subject Member an opportunity to make representations to the Sub Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.
- 6.22 The Council has delegated to the Sub Committee powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly, depending on the seriousness or significance of the matters, the Sub Committee may authorise the Monitoring Officer to:
- a. report the findings to Full Council;
  - b. recommend to the Subject Member's Group Chairman or Leader (or in the case of un-grouped members, recommend to Full Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Authority;
  - c. arrange training for the Subject Member;
  - d. remove from all outside appointments to which the Subject Member has been appointed or nominated by Full Council;
  - e. withdraw facilities provided to the Member by the Authority, such as a computer, website and/or email and Internet access; or
  - f. exclude the Subject Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Full Council, Committee and Sub-Committee meetings.

- 6.23 The Sub Committee has no power to suspend or disqualify the Subject Member or to withdraw members' or any special responsibility allowances, which may exist.
- 6.24 At the end of the hearing, the Chairman will state the decision of the Sub Committee as to whether the Subject Member failed to comply with the Code and as to any actions which the Sub Committee resolves to take.
- 6.25 The Monitoring Officer will issue a decision notice, in consultation with the Chairman of the Sub Committee. The decision notice will be sent to the Complainant and the Subject Member. The decision notice or a summary of the decision will be available for public inspection and be published and included in Members' Update. The decision will be reported to the next convenient meeting of the Standards Committee for information.

### **Appeals**

- 6.26 There is no right of appeal against a decision of the Monitoring Officer or of the Standards Hearing Sub Committee to the Authority.

### **Independent Person**

- 6.27 The Independent Person will be invited to attend all meetings of the Sub Committee. The views of the Independent Person will be sought and taken into consideration before the Sub Committee takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

### **Revision of these arrangements**

- 6.28 In the interests of fairness, the Monitoring Officer may vary any of these arrangements as appropriate. The Chairman of the Standards Sub Committee may depart from the arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.



## Annexe 1

### GLOSSARY

In this Code the following words will have the following meanings:—

<b>Term</b>	<b>Meaning</b>
Authority	means Epsom & Ewell Borough Council
Code or Code of Conduct	means the Authority's Code of Conduct for Members
Independent Person	means the a person who complies with the requirements section 28 Localism Act 2011 appointed by the Council to be the Independent Person
Meeting	means any meeting of— (a) the authority; (b) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees; whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members
Member	means an appointed member of Epsom & Ewell Borough Council or any a co-opted member as defined by Section 27(4) Localism Act 2011.
Subject Member	means a Member who is the subject of a complaint or allegation for a breach of the Code
Sensitive Information	means information whose availability for inspection by the public creates, or is likely to create, a serious risk that a Member or a person connected to a Member may be subject to violence or intimidation
Nine Principles	means the general principles of conduct namely: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, Leadership, duty to uphold the law, and Stewardship

Complainant	means the person who has made an allegation that a Member has failed to comply with the Member's Code of Conduct
Investigation Officer	means the person appointed by the Monitoring Officer to under an investigation into a complaint of a breach of the Members' Code of Conduct.
Standards Hearing Sub Committee	means a sub committee of the Standards Committee established to conduct hearings into allegations against a Subject Members/s and to determine such allegations following a hearing.
Relevant Authority	means a county council or other such council formally constituted under local government legislation

## Annexe 2

### The Schedule to the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>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.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>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</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the

	relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\*Note "M" means a member or co-opted member of the Council.



**Local Government Association**  
**Model Councillor Code of Conduct 2020**

**Joint statement**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- 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;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring

**Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

**General Conduct****1. Respect****As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

**2. Bullying, harassment and discrimination****As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and



contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

**As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

#### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a councillor:**

### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a councillor:**

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

### **As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

## **9. Interests**

### **As a councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B sets** out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## 10. Gifts and hospitality

### As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

## **Agenda Item 5 Appendix 2**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it ]

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the



	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an unincorporated body of which such person is a partner or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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 councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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\* 'director' includes a member of the committee of management of an industrial and provident society.

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

**Table 2: Other Registrable Interests**

You must register as an Other Registrable Interest :

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management

## Appendix C – the Committee on Standards in Public Life

Agenda Item 5  
Appendix 2

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***

## **INDEMNITY SCHEME FOR COUNCILLORS AND OFFICERS**

**Head of Service:** Andrew Bircher, Interim Director of Corporate Services

**Wards affected:** (All Wards);

**Appendices (attached):**

### **Summary**

The indemnity scheme has been reviewed by the Constitution Working Group (CWG) and this report sets out the recommended changes to wording.

### **Recommendation (s)**

#### **The Committee is asked to:**

- (1) Consider the updated wording for the indemnity scheme as set out in Appendix 2 below; and**
- (2) Recommend to Full Council that the revised indemnity scheme at Appendix 2, should be adopted as part of the council's operating framework.**

### **1 Reason for Recommendation**

- 1.1 As part of reviewing the Constitution the CWG identified an omission from the wording of the council's indemnity scheme and has proposed changes to address this.

### **2 Background**

- 2.1 When the new Constitution was adopted earlier this year the existing wording for the indemnity scheme was carried forward un-changed as part of the council's operating framework (annex 2.5 Indemnity scheme to Councillors and officers).
- 2.2 The indemnity scheme wording, although it refers to Councillors and employees in the heading of the item, only refers to employees in the text of the document.
- 2.3 The CWG asked for this to be looked into and to confirm with our insurance providers that both Councillors and officers are covered by the scheme.

- 2.4 The insurance company has confirmed as follows:

*If an officer or councillor is personally sued for actions taken whilst acting as a council representative, they will be covered under the Officials Indemnity policy (which our current insurer calls Casualty policy). The policy covers both legal costs and any potential settlement arising from the claim.*

*This policy is designed to cover pure financial losses directly caused by a negligent and accidental act or omission committed or alleged to have been committed by employees or members in the normal execution of their statutory duties.*

- 2.5 As a result, the wording of the identity scheme has been amended and is shown at Appendix 2. (Appendix 1 is the current wording).

### **3 Risk Assessment**

Legal or other duties

- 3.1 Equality Impact Assessment

3.1.1 There are no EIA implications that arise from this report.

- 3.2 Crime & Disorder

3.2.1 None that arise from this report.

- 3.3 Safeguarding

3.3.1 None.

- 3.4 Dependencies

3.4.1 None.

- 3.5 Other

3.5.1 None.

### **4 Financial Implications**

- 4.1 There are no direct implications arising from this report.

- 4.2 **Section 151 Officer's comments:** None arising from the contents of this report.

### **5 Legal Implications**

- 5.1 The **Local Authorities (Indemnities for Members and Officers) Order 2004 (SI 2004/3082) [‘2004 Order’]** applies to this Council (as this Order provides for circumstances in which a relevant authority in England or a police authority in Wales may provide an indemnity to any of their members or officers). The explanatory note states:

*Article 4 makes it clear that an indemnity may be provided by means of the authority securing the provision of an insurance policy for the member or officer.*

*Article 5 sets out the cases in which indemnities (including those provided by insurance) may be provided. This article restricts the power to cases in which the member or employee is carrying on any function at the request of, with the approval of, or for the purposes of, the authority. However, it does extend to cases in which when exercising the function in question the member or officer does so in a capacity other than that of a member or officer of the authority. This would permit an indemnity, for example, to cover a case where the member or officer acts as a director of a company at the request of his authority, and thus is acting in his capacity as a director.*

*Article 6 prevents the provision of an indemnity (or securing of insurance) in relation to criminal acts, any other intentional wrongdoing, fraud, recklessness, or in relation to the bringing of (but not the defence of) any action in defamation.*

*Article 7 gives a limited power to provide an indemnity (including any indemnity provided by insurance) where the action or inaction complained of is outside the powers of the authority itself or outside the powers of the member or officer who acts. It also covers cases in which a member or officer makes a statement that certain steps have been taken or requirements fulfilled but it later becomes clear that this is not the case. This power is limited to cases in which the person indemnified—*

- *reasonably believed that the matter in question was not outside those powers, or*
- *where a document has been issued containing an untrue statement as to the authority's powers, or as to the steps taken or requirements fulfilled, reasonably believed that the statement was true when it was issued or authorised.*

*Article 8 gives the authority freedom to negotiate such terms for any indemnity or policy of insurance as it thinks appropriate but requires that those terms include provision for re-payment of sums expended by the authority or the insurer in cases in which a member has been found to be in breach of the Code of Conduct applicable to him as a member of the authority, or a member or officer has been convicted of a criminal offence (if the indemnity or insurance policy would otherwise cover the proceedings leading to that finding or conviction). Any sums recoverable may be recovered as a civil debt.*

- 5.2 **Legal Officer’s comments:** The amendments (as detailed in Appendix 2) have been reviewed by external Counsel to ensure compliance with the 2004 Order.

## 6 Policies, Plans & Partnerships

6.1 **Council's Key Priorities:** The following Key Priorities are engaged:

- The review of the constitution was an annual plan objective from year 2022/2023 and this work follows on from that.

6.2 **Service Plans:** The matter is included within the current Service Delivery Plan for the relevant department.

6.3 **Climate & Environmental Impact of recommendations:** There are no implications.

6.4 **Sustainability Policy & Community Safety Implications:** None

6.5 **Partnerships:** None

## 7 Background papers

7.1 The documents referred to in compiling this report are as follows:

### **Previous reports:**

- None

### **Other papers:**

- None



**Annex 2.5 – Indemnities to Councillors and Officers – existing version**

**Annex 2.5 - Indemnities to Councillors and Officers**

1. The council will, subject to the exceptions set out below, indemnify its employees and former employees against claims made against them (including costs awarded and reasonable costs incurred) and will not itself make claims against them for any loss or damage (other than claims falling within the cover provided to its employees under any policy of insurance taken out by the council or any motor vehicle insurance policy taken out by the employee), occasioned by any neglect, act, error or omission committed by them in or about the pursuit of their duties as they may be from time to time in the course of their employment with the council whilst acting within the scope of their authority which shall include when they are acting for other persons or other bodies with the council's consent.

**2. Exceptions**

2.1. The indemnity will not extend to loss or damage directly or indirectly caused by or arising from:

- i. Fraud, dishonesty or a criminal offence on the part of the employee.
- ii. Any neglect, error or omission by the employee otherwise than in the course of his duties.
- iii. Liability in respect of losses certified by the District Auditor as caused by wilful misconduct.

2.2. The indemnity will not apply if an employee, without the written authority of the council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this resolution, or where there is evidence that the employee had acted with reckless disregard for the consequences.

2.3. The indemnity is without prejudice to the right of the council to take or institute disciplinary action against an employee in respect of any neglect, act, error or omission

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**Annex 2.5 – Indemnities to Councillors and Officers – proposed version**

**Annex 2.5 - Indemnities to Councillors and Officers**

1. The council will, subject to the exceptions set out below, indemnify Councillors, former Councillors its employees and former employees against claims made against them (including costs awarded and reasonable costs incurred) and will not itself make claims against them for any loss or damage (other than claims falling within the cover provided to its councillors and employees under any policy of insurance taken out by the council or any motor vehicle insurance policy taken out by the councillor or employee), occasioned by any neglect, act, error or omission committed by them in or about the pursuit of their duties as they may be from time to time in the course of their duties as a Councillor or employment with the Council whilst acting within the scope of their authority which shall include when they are acting for other persons or other bodies with the Council's consent.

**2. Exceptions**

2.1. The indemnity will not extend to loss or damage directly or indirectly caused by or arising from:

- i. Fraud, deliberate wrongdoing or recklessness or a criminal offence on the part of the Councillor or employee.
- ii. Any neglect, error or omission by the councillor or employee otherwise than in the course of their duties.
- iii. Liability in respect of losses certified by the District Auditor as caused by wilful misconduct.

2.2. The indemnity will not apply if a Councillor or employee, without the written authority of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this resolution, or where there is evidence that the councillor or employee had acted with reckless disregard for the consequences.

2.3 The indemnity will not apply to the making, by a Councillor or employee, of a claim for defamation of that Councillor or employee. However, it may apply in relation to the defence by that Councillor or employee of any allegation of defamation made against them.

2.4. The indemnity is without prejudice to the right of the Council to take or institute disciplinary action against a Councillor or employee in respect of any neglect, act, error or omission.

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## REVIEW OF CODE OF CONDUCT COMPLAINTS

<b>Head of Service:</b>	Piero Ionta, Head of Legal and Monitoring Officer
<b>Wards affected:</b>	(All Wards);
<b>Appendices (attached):</b>	None

### Summary

To provide an update on complaints made under the Code of Conduct for Members from 1/2/2022 to 27/11/2023.

### Recommendation (s)

#### The Committee is asked to:

- (1) **Note there have been no complaints between 1 February 2022 to the 27 November 2023;**

## 1 Reason for Recommendation

- 1.1 As there have been no complaints received since the last report was brought to this committee on 22 February 2022, Members are invited to note the situation between 1 February 2022 to 27 November 2023.

## 2 Background

- 2.1 Annual reporting of member complaints was requested to be a standing item on the Committee's agenda. The first and only report brought to this Committee since reporting was introduced as a standing item covered the period 1 January 2021 until 31 January 2022. That report was brought on 22 February 2022.
- 2.2 Since that time, there has been a change in the Council's Monitoring Officer (22 May 2023) so this report seeks to reflect the period between the last report (January 2022 – May 2023) and the first six months of this municipal year. The next report will be due in December 2024 and shall cover 28 November 2023 – late/end November 2024 and that will be the range of dates on a rolling annual basis hereinafter.

2.3 Further to discussions held with the former Monitoring Officer, it was confirmed that there have been no complaints made under the Code about member conduct between 1 February 2022 and 22 May 2023. Further to this, there have been no complaints made under the Code about member conduct between 23 May 2023 and 27 November 2023.

2.4 Members will be aware that this meeting is due to consider the adoption of the Local Government Association (LGA) Model Code of Conduct for Members which it is hoped shall assist the both the Council and members when any future complaint is considered in accordance with the updated LGA guidance.

### 3 Risk Assessment

Legal or other duties

3.1 Equality Impact Assessment

3.1.1 None arising from the contents of this report.

3.2 Crime & Disorder

3.2.1 None arising from the contents of this report.

3.3 Safeguarding

3.3.1 None arising from the contents of this report.

3.4 Dependencies

3.4.1 None arising from the contents of this report.

3.5 Other

3.5.1 None.

### 4 Financial Implications

4.1 **Section 151 Officer's comments:** None arising from the contents of this report.

### 5 Legal Implications

5.1 **Legal Officer's comments:** None arising from the contents of this report.

### 6 Policies, Plans & Partnerships

6.1 **Council's Key Priorities:** The following Key Priorities are engaged:

- Effective Council.

- 6.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.
- 6.3 **Climate & Environmental Impact of recommendations:** None arising from the contents of this report.
- 6.4 **Sustainability Policy & Community Safety Implications:** None arising from the contents of this report.
- 6.5 **Partnerships:** None.

## 7 Background papers

- 7.1 The documents referred to in compiling this report are as follows:

**Previous reports:**

- Standards and Constitution Committee, 22 February 2022.

**Other papers:**

- None

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