



# CONSTITUTION

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# **PART 1**

## **Summary and Explanation**

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## 1 The Council's Constitution

- 1.1 Epsom and Ewell Borough Council has agreed a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
- 1.2 The Constitution is divided into seventeen (17) Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols set out in Parts 3 to 5 of the Constitution.
- 1.3 In accordance with the Localism Act 2011, the Council operates a committee system as its form of governance. This preserves the opportunity for all Councillors to be directly involved in decision-making.

## 2 What is in 'The Constitution'?

- 2.1 **Article 1** of the Constitution commits the Council to delivering its priorities, providing clear leadership in partnership with local people, businesses and others with a stake with the wellbeing of Epsom & Ewell Borough. It explains the rights of the citizens and how the key parts of the Council operate. These are:
  - (a) Members of the Council (Councillors) (Article 2)
  - (b) Citizens and the Council (Article 3)
  - (c) The Council (Article 4)
  - (d) The Mayor (Article 5)
  - (e) Overview and Scrutiny (Article 6)
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  - (n) Suspension, interpretation and publication of the Constitution (Article 15)
  - (m) Petition Scheme (Article 16)

(n) Champions (Article 17)

### **3 How the Council operates**

- 3.1 The Council is composed of 38 Councillors (otherwise called Members) elected every four years. There are 13 Wards of which one Ward has two Members representing it and the remaining 12 have three members per Ward. The overriding duty of Councillors is to the whole community in the Borough, but they have a duty and democratic accountability to their constituents in their Ward, including those who did not vote for them.
- 3.2 Members have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee assists and advises the Council, as deemed necessary, in meeting its duty to promote and maintain high standards of conduct.
- 3.3 All Members meet together as the Council. Meetings of the Council are normally open to the public. At a meeting of full Council, Members decide the Council's overall policies and plans, set the budget each year and resolve any issues which would normally be decided by committees or officers except for their controversial nature.
- 3.4 The procedures for Council meetings are set in Part 4 of the Constitution.

### **4 How decisions are made**

- 4.1 Decisions are made by the Council or by committees or senior officers of the Council under delegated authority. The Council has four policy committees responsible respectively for strategy and budget formulation; the environment and community safety; community and wellbeing; and licensing and planning policy issues. In addition, the Planning Committee deals with planning applications and related matters, Standards Committee deals with the ethical framework, and an Audit, Crime & Disorder and Scrutiny Committee deals with both scrutiny of the Council and also the Crime Reduction Partnership
- 4.2 If the Council wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole.
- 4.3 Occasionally, a sub-committee will be set up for a specific purpose and time period but otherwise any working groups and panels will only have advisory functions - the committees referred to above will normally be the only ones making decisions.
- 4.4 Meetings of the Council's committees, sub-committees and panels are publicised well in advance and are open to the public except where personal or confidential matters are being discussed.

## **5 Overview and Scrutiny**

- 5.1 The Audit, Crime & Disorder and Scrutiny Committee supports the work of the policy committees and the Council as a whole. It reports to the Council. It allows citizens to participate in investigating matters of local interest. This can lead to reports and recommendations which advise the policy committees and the Council as a whole on its policies, budget and service delivery. Sometimes, it or another committee or panel will also examine the activities of other public bodies whose actions affect the well-being of the community.
- 5.2 The Committee also monitors the decisions of the policy committees and can 'call-in' a decision which has been made but not yet implemented. This enables it to consider whether the decision is appropriate and may lead to a recommendation that the relevant committee or the Council should reconsider the decision.
- 5.3 The Committee may be consulted by policy committees on forthcoming decisions and the development of policy although in most cases the policy committees will develop their own policy. The Audit, Crime & Disorder and Scrutiny Committee is responsible for ensuring that the Council complies with its duties concerning Best Value, in accordance with the Local Government Act 1999. It scrutinises the Council's financial and audit arrangements and must ensure that suitable arrangements are made to manage performance and deliver priorities.
- 5.4 The Committee can review or scrutinise decisions or other action taken by the local Crime and Disorder Reduction Partnership. It can make reports and recommendations to the policy committees or to Council on its findings.
- 5.5 Ward councillors can refer local crime and disorder matters which they have been unable to resolve to the Audit, Crime & Disorder and Scrutiny Committee for consideration under a process known as "councillor call for action".

## **6 Area Committees**

- 6.1 The Council does not have Area Committees but has the power to create these in the future, following public consultation on their number, composition, function and delegated financial authority. It will only do this if it is satisfied that it will improve services and lead to more efficient, transparent and accountable decision-making.

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

- 7.1 The Council employs staff, by convention known as Local Government 'Officers', to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. Codes of Conduct and a Protocol (see Part 5 of the Constitution) govern the relationships between Members and Officers.

## **8 Citizens' Rights**

8.1 Citizens have a number of rights in connection with their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes and can be amended or extended by decision of the Council. Citizens' Advice can advise on individuals' legal rights.

8.2 Citizens have the right to:

- (a) vote at local elections, if they are eligible and registered;
- (b) contact their local Councillor(s) about any matters of concern to them;
- (c) access a copy of the Constitution;
- (d) attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- (e) inspect agendas and reports except where, for example, a report has been written about a confidential matter;
- (f) petition to request a referendum on a directly elected mayoral form of executive;
- (g) speak at committees – (See Part 4, Section 1(B));
- (h) complain to the Council under its internal complaints process;
- (i) complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly - however, they should only do this after raising the complaint with the Council and giving the Council a chance to respond;
- (j) complain to the Council's Monitoring Officer if they have evidence which they think shows that a Member has not followed the Council's Code of Conduct for Members;
- (k) inspect the Council's accounts and make their views known to the external auditor.

8.3 Where members of the public use specific Council services they may have additional rights. These are not covered in this Constitution. The Council will also provide further opportunities for involvement through consultation and through invitations to participate in working groups or panels.

8.4 A statement of the rights of citizens to inspect agendas and reports and attend meetings is available at the Council's offices.

8.5 The Council welcomes participation by the Borough's citizens in its work.



# **PART 2**

# **Articles of the Constitution**

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## **ARTICLE 1 - The Constitution**

### **The Constitution**

1.1 This Constitution, and all its appendices, is the Constitution of the Borough Council of Epsom and Ewell (hereafter referred to as 'the Council').

### **Powers of the Council**

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

### **Purpose of the Constitution**

1.3 The purpose of the Constitution is to:-

- (a) Enable the Council to provide clear leadership to the community in partnership with residents, businesses and other organisations;
- (b) Support the active involvement of citizens in the process of local authority decision-making;
- (c) Help Councillors represent their constituents more effectively;
- (d) Enable decisions to be taken efficiently, effectively and transparently, with due regard to probity and equity;
- (e) Create a powerful and effective means of holding decision-makers to public account;
- (f) Ensure that no one will scrutinise a decision in which he or she was directly involved;
- (g) Ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
- (h) Provide a means of improving the delivery of services to the community.

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

1.4 Where the Constitution permits the Council to choose between different courses of action, the Council will seek to exercise that choice in the way that it thinks will most closely achieve the purposes stated above. The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

## ARTICLE 2 - **Members of the Council**

### **Composition and Eligibility**

- 2.1 **Composition:** The Council comprises 38 Councillors, (otherwise called Members). Members will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission for England and approved by the Secretary of State.
- 2.2 **Eligibility:** To be eligible to hold the office of Councillor, one for the four criteria must be met: registered as an elector in the Borough or living, working or owning land in the Borough.

### **Election and Terms of Members**

- 2.3 **Election:** The regular election of Members will be held normally on the first Thursday in May (or whatever date is fixed by law) every four years (from 2003).
- 2.4 **Terms:** The terms of office of Members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

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

- 2.5 **Key Roles:** All Members will:
- (a) Collectively be the ultimate policy-makers and carry out the principal strategic and corporate management functions, taking a Borough-wide view;
  - (b) Engage with and represent their communities, whose views they will bring into the Council's decision-making process and whose involvement and participation they will actively encourage;
  - (c) Represent the interests of their ward and where necessary balance different interests;
  - (d) Deal with individual casework and act as an advocate for constituents with their particular concerns or grievances in so far as they relate to the functions and responsibilities of the Council;
  - (e) Be involved in decision-making;
  - (f) Be available to represent the Council on other bodies;
  - (g) Maintain the highest standards of conduct and ethics, showing respect for fellow Members, officers and the community.
- 2.6 **Rights and Duties:** Members will:-

- (a) Have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;
- (b) Not make public any information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Member or officer entitled to know it;
- (c) No Member can issue an order for works to be carried out by or on behalf of the Council and nor can he/she, unless specifically authorised to do so, claim any right to inspect or enter any land.

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

**2.7 Job Description:** Members are volunteers and bring a wide variety of skills and experience to the job of being a councillor. The multi-member ward structure of the Council provides the opportunity for individual councillors to specialise and use their particular skills and experience, working as part of a team for the benefit of the local community they represent, as well as the wider interest of the Borough as a whole.

**2.8** However, there is a core role, which the community and the Council as a whole expect of all Members. This job description sets out that role under the six headings below:

**2.8.1 Representing the local Ward Community**

- (a) Seeking, and listening to, the views of individuals, voluntary groups and businesses within the ward and representing local ward community views;
- (b) Balancing conflicting views and expectations to present a considered view to the Council or other agencies which have an impact on that community;
- (c) Informing the local community about the work of the Council and helping it to take an informed view of the options that may be before the Council.

**2.8.2 Representing Individuals and Groups**

Whenever appropriate:-

- (a) Helping individuals, groups and businesses, to secure the appropriate services of the Council;
- (b) Helping individuals and groups to articulate their needs and have their case or their complaint heard, and when appropriate, presenting their case for them;

### **2.8.3 Representing the Whole Community**

- (a) To take an overview of the needs and views of the whole community - residents, voluntary groups and businesses together;
- (b) To balance long and short term needs and to promote the long term economic, social and environmental well being of the Epsom and Ewell community as a whole.

### **2.8.4 Representing the Council**

- (a) Acting as an ambassador of the Council in the wider community;
- (b) Where appointed to a particular position as the Council's representative on other public or voluntary bodies, to represent and secure the Council's policies through influence and formal partnership working in those bodies;
- (c) Building and maintaining relationships with the Council's partners.

### **2.8.5 A Local Politician**

- (a) To promote and represent the values and manifesto on the basis of which he/she has been elected in the decision making arrangements of the Council;
- (b) To support any political group or party to which he/she may belong in order to secure and maximise its support in local and other appropriate democratic elections.

### **2.8.6 Managing the Council and its Services (The Committee Role)**

- (a) As a member of the full Council, to set the Corporate Plan and to monitor the performance of its Committees;
- (b) As a member of a Council committee, sub-committee or panel, to manage the provision of the Council's services to the Community, in accordance with the Council's aims and objectives set out in its Corporate Plan;
- (c) To review the Council's performance in the provision of its policies and services and identify opportunities to provide better value to the community.

## **Conduct**

- 2.9 Members will at all times observe the Members' Code of Conduct and will have regard to other documents such as the Codes of Conduct for Planning and Licensing matters and the Member/Officer Protocol set out in Part 5 of this Constitution.

- 2.10 The Council is required to maintain and update a Register of Interests of its Members. The Register is available for public inspection at the Council's offices and on the Council's website.

### **Allowances**

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

## **ARTICLE 3 - Citizens and the Council**

### **Citizens' Rights**

- 3.1 Citizens rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution, subject to which, Citizens have the following rights:
- (a) **Voting and Petitions.** Citizens on the Register of Electors for the Borough have the right to vote in elections and to sign a petition to request a referendum for a form of Constitution with an elected Mayor. (A petition signed by 5% of those on the Register of Electors requires the Council to hold such a referendum).<sup>1</sup>
- (b) **Information.** Citizens have a right to:-
- Attend meetings of the Council and its committees, Sub-committees and Advisory Panels except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - See reports and background papers, and any records of decisions made by the Council;
  - Inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to:-
- Present petitions to the Council
  - Ask a question at committee meetings in accordance with agreed procedures;
  - Ask a supplementary question at the meeting provided it arises from the response to the original question.

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<sup>1</sup> The power to create directly elected mayors of local authorities was introduced in England and Wales by the Local Government Act 2000. Adjustments were made by the Local Government & Public Involvement in Health Act 2007 and the Localism Act 2011.

- (d) **Complaints.** Citizens have the right to complain to the:
- Council itself under its complaints scheme;
  - Local Government Ombudsman after using the Council's own complaints scheme;
  - Monitoring Officer about a breach of the Members' Code of Conduct.
  - Information Commissioner about a breach of the Council's obligations under the Data Protection Act 1998, the Freedom of Information Act 2000 or the Environmental Information Regulations 2005.

### **Citizens' Responsibilities**

- 3.2 Citizens must not be violent, abusive or threatening to Members or Officers and must not wilfully harm property owned by the Council, Members or Officers. The Council will in appropriate cases be prepared to take action to protect its own rights and to support such action by its Members or Officers.

## **ARTICLE 4 - The Council**

### **The Role of the Council**

- 4.1 To act as a forum where all Members can meet on a regular basis, act as a focus for the Council, discuss and debate issues of importance to the Borough and decide the Council's budgetary and policy framework.

### **Policy Framework:**

- 4.2 The policy framework means plans and strategies, set out below which form the Policy Framework (subject to any variation that may from time to time be made in response to legislation). Any change to the Framework which is necessary as a result of changes in legislation will be incorporated into this Constitution by the Monitoring Officer without the need for the agreement of Full Council.
- 4.3 The policy framework includes the following plans and strategies:-
- (a) Mandatory (required by law)
- Local Development Framework and Local Area Action Plans <sup>2</sup>
  - Statement of Licensing Policy <sup>3</sup>
  - Statement of Gambling Policy<sup>4</sup>

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<sup>2</sup> Section 15 Planning and Compulsory Purchase Act 2004

<sup>3</sup> Section 5 -Licensing Act 2003

<sup>4</sup> Section 349 Gambling Act 2005



- Crime & Disorder Reduction Strategy<sup>5</sup>
  - Pay Policy Statement
- (b) Discretionary (as recommended by the Secretary of State)
- Corporate Plan
- (c) Discretionary (as decided by Full Council to be adopted as such)
- Housing Strategy
  - Equalities Statement
  - Health & Wellbeing Strategy

### **Budget.**

4.4 The Council has responsibility for the budget framework which includes:-

- (a) the allocation of financial resources to different services and projects;
- (b) any proposed contingency funds;
- (c) setting the Council Tax;
- (d) decisions relating to the control of the Council's borrowing requirement;
- (e) the control of capital expenditure;
- (f) the setting of limits to the amounts by which committees and officers can transfer expenditure between different budget heads (virement).

### **Functions of the Council**

4.5 Only full Council will exercise the following functions:-

- (a) adopting and changing the Constitution;
- (b) 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;
- (c) 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;
- (d) 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 Part 4 of the Constitution);
- (e) appointing annually the Mayor and Deputy Mayor;

<sup>5</sup> Sections 5 & 6 The Crime and Disorder Act 1998

- (f) appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (g) 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;
- (h) delegating functions to other local authorities or their executives and deciding whether or not to accept such a delegation from another local authority;
- (i) adopting a Members' Allowance Scheme;
- (j) changing the name of the Borough;
- (k) conferring the title of Honorary Alderman or Honorary Freeman;
- (l) confirming the appointment, redundancy or early retirement of the Chief Executive;
- (m) determining any delegation to officers which does not fall within the purview of any committee;
- (n) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;
- (o) determining the level of disciplinary action or dismissal of specified statutory senior officers;
- (p) appointing the Independent Person or a Panel of such;
- (q) adopting the Members' Code of Conduct and the arrangements for dealing with complaints;
- (r) to consider those matters referred to it from time-to-time by scrutiny committees and by other Council committees;
- (s) to consider petitions which are referred to Full Council under the Petition Scheme;
- (t) all other matters which by law must be reserved to Council.

### **Council Meetings**

4.6 There are three types of Meetings of the full Council:

- (a) the Annual Meeting;
- (b) Ordinary Meetings;
- (c) Extraordinary Meetings.

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

## **ARTICLE 5 - The Mayor**

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

- 5.1 There are two distinct facets to the Officer of Mayor: ceremonial and civic, because the Mayor is:
- (a) the First Citizen of the Borough of Epsom & Ewell, and
  - (b) the Chair/ Chairman of Epsom & Ewell Borough Council.
- 5.2 The Mayor, and in his/her absence the Deputy Mayor, will be the first citizen of the Borough and have the following roles and functions, to:-
- (a) uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
  - (b) preside impartially over meetings of full Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community;
  - (c) be the representative for the Council, the community and local democracy and to work to ensure that the dignity and impartiality of the Office of Mayor is upheld;
  - (d) ensure that Council meetings are a forum for the debate of matters of concern to the local community;
  - (e) promote public involvement in the Council's activities;
  - (f) attend such civic and ceremonial functions as the Council considers appropriate;
  - (g) promote the Council as a whole and act as a focal point for the community.
- 5.3 Should the Mayor wish, in exceptional circumstances, to take part in debate on an issue before the Council, he/she should vacate the Chair for the whole of that item in favour of the Deputy Mayor.

## ARTICLE 6 - Overview and Scrutiny

### Functions

- 6.1 The Council will appoint a committee to discharge the scrutiny and review functions conferred by Section 21 of the Local Government Act 2000 and regulations made under Section 32 of the Local Government Act 2000 in relation to the following matters:
- (a) local democracy and the achievement of effective, transparent and accountable decision making by the Council;
  - (b) the Council's budget, the management of its budget, capital programme, revenue borrowing and assets and its audit arrangements;
  - (c) the social, economic and environmental well-being of the Borough;
  - (d) the provision, planning, management and performance of all Council services;
  - (e) the Council's compliance with its duty concerning Best Value, in accordance with the Local Government Act 1999.
- 6.2 The Council will appoint a committee to discharge the scrutiny and review functions conferred by Section 19 and Schedule 8 of the Police and Justice Act 2006 and regulations made under Section 20 of the Police and Justice Act 2006 in relation to the Crime and Disorder Reduction Partnership.
- 6.3 The functions detailed within sections 6.1 and 6.2 above are discharged by the Council's Audit, Crime & Disorder and Scrutiny Committee.

### Terms of Reference

- 6.4 The terms of reference for the Audit, Crime & Disorder and Scrutiny Committee are set out in Part 3 of this Constitution entitled 'Responsibility for Functions'.
- 6.5 Within its terms of reference, the Committee will:
- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
  - (b) make reports and/or recommendations to full Council and/or any Committee in connection with the discharge of any functions;
  - (c) consider any matter affecting the area or its inhabitants,
  - (d) exercise the right to call-in, for reconsideration, decisions made by any policy committee but not yet implemented by any policy committee.

- (e) review and/or scrutinise decisions made or action taken in connection with the discharge by the Crime and Disorder Reduction Partnership of its crime and disorder functions;
- (f) make reports and/or recommendations to full Council and/or any appropriate committee in connection with the discharge of the Crime and Disorder Reduction Partnership functions, providing a copy to the responsible authorities and co-operating persons and bodies of the Crime and Disorder Reduction Partnership;
- (g) consider “councillor calls for action” concerning local crime and disorder matters in accordance with the Councillor Call for Action Protocol.
- (h) make reports and/or recommendations to full Council or any appropriate policy committee in relation to a councillor call for action concerning a local crime and disorder matter, providing a copy to the member concerned and to members of the CDRP as it thinks appropriate

### **Annual reports**

6.6 The Audit, Crime & Disorder and Scrutiny Committee will report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

### **Officers**

6.7 The Audit, Crime & Disorder and Scrutiny Committee will exercise overall responsibility for the work programme of those officers whose function is wholly to support its work, and of other officers in so far as they support that work.

### **Proceedings of Audit, Crime & Disorder and Scrutiny Committee**

6.8 The Audit, Crime & Disorder and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## **ARTICLE 7 - Policy and Regulatory Committees**

### **Policy Committees**

- 7.1 Full Council will appoint four policy committees as follows:
- (a) Community & Wellbeing
  - (b) Environment & Safe Communities
  - (d) Strategy and Resources

(e) Licensing and Planning Policy

7.2 The functions attributed to those committees are set out in Part 3 of this Constitution entitled 'Responsibility for Functions'.

### **Regulatory Committees**

7.3 Full Council will appoint a Planning Committee, which will be responsible for dealing with planning applications and related matters.

7.4 The Licensing and Planning Policy Committee will appoint Licensing (Hearings) Sub Committees to be responsible for issuing premises and personal Licences (the membership of which must be drawn from Members of Licensing and Planning Policy Committee) and a Licensing (General) Sub Committee for purpose of hearing appeals on both premises and vehicle licences (the membership of which is not restricted to the membership of Licensing and Planning Policy).

7.5 The functions of these Committees are set out in Part 3 of this Constitution entitled 'Responsibility for Functions'.

## **ARTICLE 8 - The Standards Committee**

### **Standards Committee**

8.1 The Council has chosen to appoint a Standards Committee in accordance with the Localism Act 2011.

### **Composition**

8.2 The Standards Committee will be politically balanced. Full Council will appoint an independent person or a panel of such, to advise it and any member when matters of conduct arise.

### **Roles and Functions**

8.3 The Standards Committee will have the functions set out in its Terms of Reference (see Part 3: Responsibility and Functions).

### **Arrangements for dealing with standards allegations under the Localism Act 2011**

8.4 All hearings and assessments of complaints against Members will be conducted in accordance with the current legal requirements and (subject to that) the provisions set out in Part 4 of this Constitution.

## ARTICLE 9 - Area Committees

### Area Committees

- 9.1 The Council may appoint Area Committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of Best Value and more efficient, transparent and accountable decision making.
- 9.2 In the event that the 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; for the avoidance of conflicts of interest through membership of other committees; and for access to information.

## ARTICLE 10 - Joint Arrangements

### Arrangements to promote Wellbeing

- 10.1 The Council, in order to promote the economic, social or environmental wellbeing of its area may, subject to the other provisions of this Constitution:-
- (a) enter into arrangements or agreements with any person or body;
  - (b) co-operate with, or facilitate or coordinate the activities of any person or body;

and

- (c) exercise on behalf of that person or body any functions of that person or body.

### Joint Arrangements

- 10.2 The Council may establish joint arrangements with one or more local authorities 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.
- 10.3 Details of any joint arrangements, including any delegations to Joint Committees, will be found in Part 3 of this Constitution.

### Access to Information

- 10.4 The Access to Information Rules in Part 4 of this Constitution apply.
- 10.5 If the Joint Committee contains Members who are not on the executive of any participating local authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

## **Delegation to and from other local authorities**

- 10.6 The Council may delegate functions to another local authority or, in certain circumstances, the executive of another local authority and also accept such a delegation from another local authority.
- 10.7 The decision whether or not to delegate functions to another local authority or to accept such a delegation from another local authority shall be reserved to the Council.

## **Contracting Out**

- 10.8 The Council may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994.
- 10.9 The Council may also arrange for other functions to be carried out by a contractor, where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## **ARTICLE 11 - Officers**

**NOTE:** *'Officers' means all employees and staff engaged by the Council to carry out its functions*

## **Management Structure**

- 11.1 **General.** The Council may engage such officers as it considers necessary to carry out its functions.
- 11.2 **Directors.** The Council will engage persons for the following posts, who will be designated Directors:
- (a) Chief Executive, designated the Head of Paid Service
  - (b) Chief Operating Officer
- 11.3 The functions and responsibility of the Chief Executive and Head of Paid Service are:



Post	Areas of Responsibility
Chief Executive	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers)</p> <p>Provision of professional advice to all political groups and individual Members</p> <p>Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council)</p>

11.4 **Head of Paid Service, Chief Finance Officer and Monitoring Officer.** The Council designates the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service (Local Government & Housing Act 1989, Section 4)
Chief Legal Officer	Monitoring Officer (Local Government & Housing Act 1989, Section 5)
Chief Finance Officer	Chief Finance Officer (Local Government Act 1972, Section 151; Local Government Finance Act 1988)

The posts will have the functions described in Article 11.5 to 11.16 below.

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

### Functions of the Chief Executive (Head of Paid Service)

11.6 **Discharge of Functions by the Council.** The Head of Paid Service has overall responsibility for the management and coordination of the employees appointed by the Council. They are required to report to the Council as appropriate with regard to the way in which the overall discharge by the Council of its different functions is coordinated, the number and grade of officers proposed for the discharge of functions and the organisation of officers.

## **Functions of Chief Finance Officer (Section 151 Officer)**

- 11.7 **Ensuring lawfulness and financial prudence of decision making.** After consulting the Chief Executive and the Monitoring Officer, the Chief Finance Officer will report to the Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- 11.8 **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- 11.9 **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- 11.10 **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Members and will support and advise Members and officers in their respective roles.
- 11.11 **Giving financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

## **Functions of the Chief Legal Officer (Monitoring Officer)**

- 11.12 **Maintaining an up-to-date Constitution.** The Monitoring Officer will ensure that an up-to-date version of the Constitution is maintained and will ensure that it is available to Members, staff and the public.
- 11.13 **Ensuring lawfulness and fairness of decision making.** After consulting the Chief Executive and Chief Finance Officer, the Monitoring Officer has a duty, by virtue of Section 5 of the Local Government and Housing Act 1989, to report to the Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered by the Council.
- 11.14 **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- 11.15 **Conducting Investigations.** The Monitoring Officer will conduct investigations into allegations against Members made to the Council and arrange, if necessary, for the Standards Committee to receive reports or recommendations in respect of them.

11.16 **Proper Officer for Access to Information.** The Monitoring Officer 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.

11.17 **Providing Advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Members and will support and advise Members and officers in their respective roles.

### **Provision of sufficient resources to the Chief Executive, Chief Finance Officer and Monitoring Officer.**

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

### **Conduct**

11.19 Officers will comply with the Officers' Code of Conduct and other relevant Codes and Protocols, in particular, the Member/Officer Protocol set out in Part 5 of this Constitution.

### **Employment**

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

## **ARTICLE 12 - Decision Making**

### **Responsibility for decision-making**

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

### **Principles of Decision Making**

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

- (a) the decision should not be in conflict with the Council's Key Priorities and strategies;
- (b) the decision complied with Council Standing Orders, Contract Standing Orders and Financial Regulations;
- (c) the decision has a clear desired outcome and that any agreed action is proportionate to the outcome;

- (d) the decision has taken account of professional advice from officers, including the Monitoring Officer and the Chief Financial Officer and/or appropriate qualified consultants;
- (e) the decision has taken account of the provisions of the human rights legislation;
- (f) the decision was taken in an open and transparent manner unless otherwise legally permitted and unless the circumstances require the matter to be kept confidential;
- (g) the decision was taken after due consultation and, where appropriate, the views of the local ward members have been sought

### **Decision making by the Council**

12.3 Subject to Article 12.6 the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

### **Decision making by Audit, Crime & Disorder and Scrutiny Committee**

12.4 The Audit, Crime & Disorder and Scrutiny Committee will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **Decision making by other Committees and Sub-Committees**

12.5 Subject to Article 12.6, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution which apply to them.

### **Decision making by Council bodies acting as Tribunals**

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

## **ARTICLE 13 - Finance, Contracts and Legal Matters**

### **Financial Management**

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

## **Contracts**

- 13.2 Every contract made by the Council will comply with the Financial Standing Orders (including Standing Orders relating to Contracts) set out in Part 4 of this Constitution.

## **Legal Proceedings**

- 13.3 The Chief Legal Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he/she considers that such action is necessary to protect the Council's interests.

## **Custody of Seal**

- 13.4 The Common Seal of the Council shall be kept in some safe place and shall be secured by a lock and the keys shall be kept in some safe place by the Chief Legal Officer.

## **Sealing of Documents**

- 13.5 The Common Seal of the Council shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council or of a committee or officer to which the Council has delegated its powers in this behalf, but a resolution of the Council (or of a committee or an officer where that committee or officer has the power) 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 resolution.
- 13.6 The seal shall be attested, if signed by the Mayor (or Deputy Mayor) then also by an Authorised Officer (namely the Chief Executive or the Chief Legal Officer), or can be attested by a single Authorised Officer (namely the Chief Executive or the Chief Legal Officer) and an entry of every sealing of a document 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.

## **Signature of Documents**

- 13.7 Where any document will be a necessary step in legal proceedings on behalf of the Council it shall, unless any enactment otherwise requires or authorises or unless the Council or a committee, or sub-committee to which the Council has delegated its powers, has given the necessary authority to some other person for the purpose of such proceedings, be signed by the Chief Executive or the Chief Legal Officer.

## ARTICLE 14 - Review and Revision of the Constitution

### Duty to monitor and review the Constitution

- 14.1 The Monitoring Officer 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 Council on this at least once every year.

### Changes to the Constitution

- 14.2 **Approval.** Changes to the Constitution will only be approved by full Council after consideration of a proposal from the Standards Committee (in respect of the Council's Rules of Procedure and matters relating to the ethical framework or as deemed appropriate by the Monitoring Officer), Chief Executive or the Monitoring Officer or by way of Councillors proposing a motion on notice in accordance with the Council Procedure Rules set out in Part 4 of this Constitution.
- 14.3 **Change from alternative arrangements to a form of executive.** If at any time the Council decides to change from alternative arrangements, it must take reasonable steps to consult local electors and other interested persons in the Borough when drawing up proposals.

## ARTICLE 15 - Suspension, interpretation and publication of the Constitution

### Suspension of the Constitution

- 15.1 **Limit to suspension:** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by full Council or committees to the extent permitted within those Rules and the law.
- 15.2 **Procedure to suspend:** A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of the Council or the relevant Committee are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- 15.3 **Rules capable of suspension:** The following Rules may be suspended in accordance with Article 15.1:-
- (a) Council Procedure Rules (as specified in those Rules);
  - (b) Financial Procedure Rules;
  - (c) Contract Procedure Rules.

## **Interpretation**

- 15.4 The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of full Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1, and to any advice given by the Chief Executive.

## **Publication**

- 15.5 The Chief Executive will ensure each Councillor has access to the Council's Constitution on that individual's declaration of acceptance of office on the Councillor first being elected to the Council.
- 15.6 The Chief Legal Officer will make available copies for inspection at Council offices, and for purchase by members of the local press and the public on payment of a reasonable fee.
- 15.7 The Chief Legal Officer will ensure that the summary of the Constitution is made available, by electronic means, within the Borough and is updated as necessary.

## **ARTICLE 16 - Petition Scheme**

### **Petitions**

- 16.1 The Council welcomes petitions and recognises that petitions are one way in which people can let the Council know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out how the petition will be administered.
- 16.2 Paper petitions can be sent to:
- Chief Legal Officer  
Epsom and Ewell Borough Council  
The Town Hall  
The Parade  
Epsom  
Surrey  
KT18 5BY
- 16.3 Petitions can be submitted on line through the on line portal.
- 16.4 Petitions which satisfy the requirements of the Petition Scheme, can also be presented to a meeting of full Council. There are normally four ordinary meetings every year.

## What are petitions?

16.5 A petition is a communication that is signed by or sent to the Council on behalf of a number of people. There are different types of petitions:

- (a) **Ordinary Petitions:** These are petitions that do not fall within the other two categories set out below and will normally relate to the day-to-day services or facilities provided by the Council. Such petitions must be signed by at least 20 signatories.
- (b) **Petitions for debate:** If a petitions calls for something to be reported to and discussed at a meeting of the full Council, it must contain at least 1,500 signatures
- (c) **Petitions calling for an officer to give evidence:** If a petition calls for an officer to give evidence at a meeting of the Audit, Crime & Disorder and Scrutiny Committee and to answer questions on a specific issue, it must contain at least 800 signatures.

## Petitions not covered by this Scheme

16.6 The following petitions will not be accepted by this Council:

- (a) the subject matter of the petition is deemed likely to cause distress, disruption or irritation without any proper or justified cause;
- (b) petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted;
- (c) the subject matter of the petition relates to a matter upon which legal proceedings are possible;
- (d) the petition relates to an individual member of the community or the personal circumstances of Members or Council employees;
- (e) petitions made under any enactment other than the Local Democracy, Economic Development and Construction Act 2009;
- (f) the subject matter of the petition is about something for which this Council is not responsible or cannot influence;
- (g) petitions about a planning decision, including a development plan document, any matter relating to a licensing decision.

16.7 If the Council decides that a petition does not fall within this scheme, the petition organiser will be informed and given the reason why it is not being accepted.



16.8 In addition, a petition will not normally be considered if it is received within six months of another petition on the same matter. If two or more petitions on the same subject are received at the same time, each will be treated as a separate petition but only the organiser of the first petition received will be invited to address the relevant meeting.

### **Guidelines for submission**

16.9 The Council will accept a petition if it is signed by the required number of people who live, work or study in the Borough. A petition submitted to the Council must include:

- (a) a clear and concise statement covering the subject of the petition;
- (b) what action the petitioners would like the Council to take;
- (c) the name, address and signature of any person supporting the petition.

16.10 Petitions must be accompanied by contact details, including an address for the petition organizer with whom the Council will correspond.

16.11 The contact details of the petition organiser will not be placed on the Council's website. If the petition does not identify a petition organiser, the Council will contact signatories to the petition to agree who should act as the petition organiser.

16.12 The period immediately before an election or referendum may require the presentation of a petition to Council or a Council meeting to be delayed.

16.13 If a petition does not follow the guidelines set out above, the Council will not process the petition but will advise the petition organiser accordingly.

### **Actions on receipt of petition.**

16.14 An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition, with an explanation of next steps. It will also be published on the Council's website.

16.15 If the action requested by the petition can be taken, confirmation of such will be sent and the petition will be marked as completed and closed. If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and details of the meeting will be sent to the petition organiser. If the petition needs more investigation, the petition organiser will be advised accordingly.

16.16 If the petition is about a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor) or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply.

16.17 The Council will not take action on any petition which is consider to be vexatious, abusive or otherwise inappropriate, and reasons for this will be set out in the acknowledgement of the petition.

16.18 Petitions received, will be published on the Council's website, except in cases where this would be inappropriate. Whenever possible, the Council will also publish all correspondence relating to the petition (all personal details removed). Signatories to an e-petition, can elect to receive this information by email.

### **Council's response to petitions**

16.19 The Council's response to a petition will depend on what a petition asks for and how many people have signed it but may include one or more of the following:-

- Taking the action requested in the petition
- Considering the petition at a Council meeting
- Holding an enquiry into the matter
- Undertaking research into the matter
- Holding a public meeting
- Holding a consultation
- Holding a meeting with petitioners
- Referring the petition for consideration by the Audit, Crime & Disorder and Scrutiny Committee \*
- Writing to the petition organiser setting out the Council's views about the request in the petition

**\*Note:** *The Audit, Crime & Disorder and Scrutiny Committee is a Committee responsible for scrutinising the work of the Council – in other words it has the power to hold the Council's decision makers to account.*

16.20 If a petition seeks something which a different council or body is responsible for, the Council will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other council or body but could involve other steps. In any event, the Council will always notify the petition organizer of the action taken.

## **Full Council debates**

- 16.21 If a petition contains more than 1,500 signatures it will be debated by the full council unless it is a petition asking for a senior Council officer to give evidence at a meeting held in public.
- 16.22 This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The petition organiser will be given five minutes to present the petition at the meeting. The Council will decide how to respond to the petition at this meeting. It may decide to take the action the petition requests, not to take the action for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on the Council's website.

## **Officer evidence**

- 16.23 A petition may ask a senior council officer to give evidence at a meeting held in public about something for which the officer is responsible as part of their job. For example, a petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.
- 16.24 If a petition contains at least 800 signatures, the relevant senior officer will give evidence at a meeting held in public of the Council's Audit, Crime & Disorder and Scrutiny Committee, as appropriate. The senior staff who can be called to give evidence are:
- The Chief Executive
  - Monitoring Officer
  - Chief Operating Officer
  - Chief Finance Officer
  - Any deputies who report directly to those officers
- 16.25 The Audit, Crime & Disorder and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. Committee members will ask the questions at this meeting, the petition organiser will be able to suggest questions to the Chair/Chairman of the committee by contacting the Scrutiny Officer up to three working days before the meeting.

## **E-Petitions**

- 16.26 Petitions can be created and submitted through the Council’s website. E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide their name, postal address and e-mail address. The petition organiser will also need to decide how long they would like their petition to be open for signatures. Most petitions run for six months but can choose a shorter or longer timeframe, up to a maximum of twelve months.
- 16.27 When an e-petition is created, it may take five working days before it is published online, to enable the Chief Legal Officer to check that the content of the petition is suitable before it is made available for signature. If the petition cannot be published the petition organiser will be advised as to the reasons. The petition organiser will be able to change or re-submit their petition if they wish. The Council will within 10 working days of rejecting a petition publish a summary of the petition and the reason why it has not been accepted will be published under the “rejected petitions” section of the website.
- 16.28 If an e-petition is accepted, the petition organiser will receive an acknowledgment within 10 working days.
- 16.29 A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgement will also be published on this website.

## **Review of rejected Petition**

- 16.30 If a petition organizer feels that the Council has not dealt with their petition properly, they can request that the Council’s Audit, Crime & Disorder and Scrutiny Committee review the steps that the Council has taken in response to the petition. Such request for a review must provide a short explanation of the reasons why the Council’s response is not considered to be adequate.
- 16.31 The designated Committee will endeavour to consider the review request within 30 days of receiving it. Should the Committee determine that the petition has not been adequately dealt with, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendation to the appropriate Committee or arranging for the matter to be considered at a meeting of the full Council.
- 16.32 Once the review has been considered, the petition organiser will be informed of the results within five working days. The results of the review will also be published on the Council’s website.

## **ARTICLE 17 - Champions**

### **Appointment of Champions**

- 17.1 At its discretion full Council may from time to time designate Champions from amongst its Members to explore and represent the interests of specific issues and groups.

## **Term of Appointment**

- 17.2 Members who are designated as Champions shall hold the appointment as Champion until the commencement of the next Annual Meeting of the Council unless:
  - 17.3 they resign as a Champion;
  - 17.4 they are no longer Members
  - 17.5 Council at their discretion have agreed to remove the role of a Champion
  - 17.6 full Council at their discretion have agreed to remove or replace the Member as a Champion

## **Role & Functions**

- 17.7 To act as a positive focus for the local community at elected member level in respect of the relevant section of the community or range of activities designated by the Council. Champions focus on their area of responsibility by:
  - 17.8 Ensuring where possible the Council's policies are developed and decisions taken with an understanding of issues or causes/interests being championed.
  - 17.9 raising the profile and demonstrating the Council's commitment to the issues or activities;
  - 17.10 promoting effective communication and positive working relationships both within the Council and amongst partners, stakeholders and community groups.

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# **PART 3**

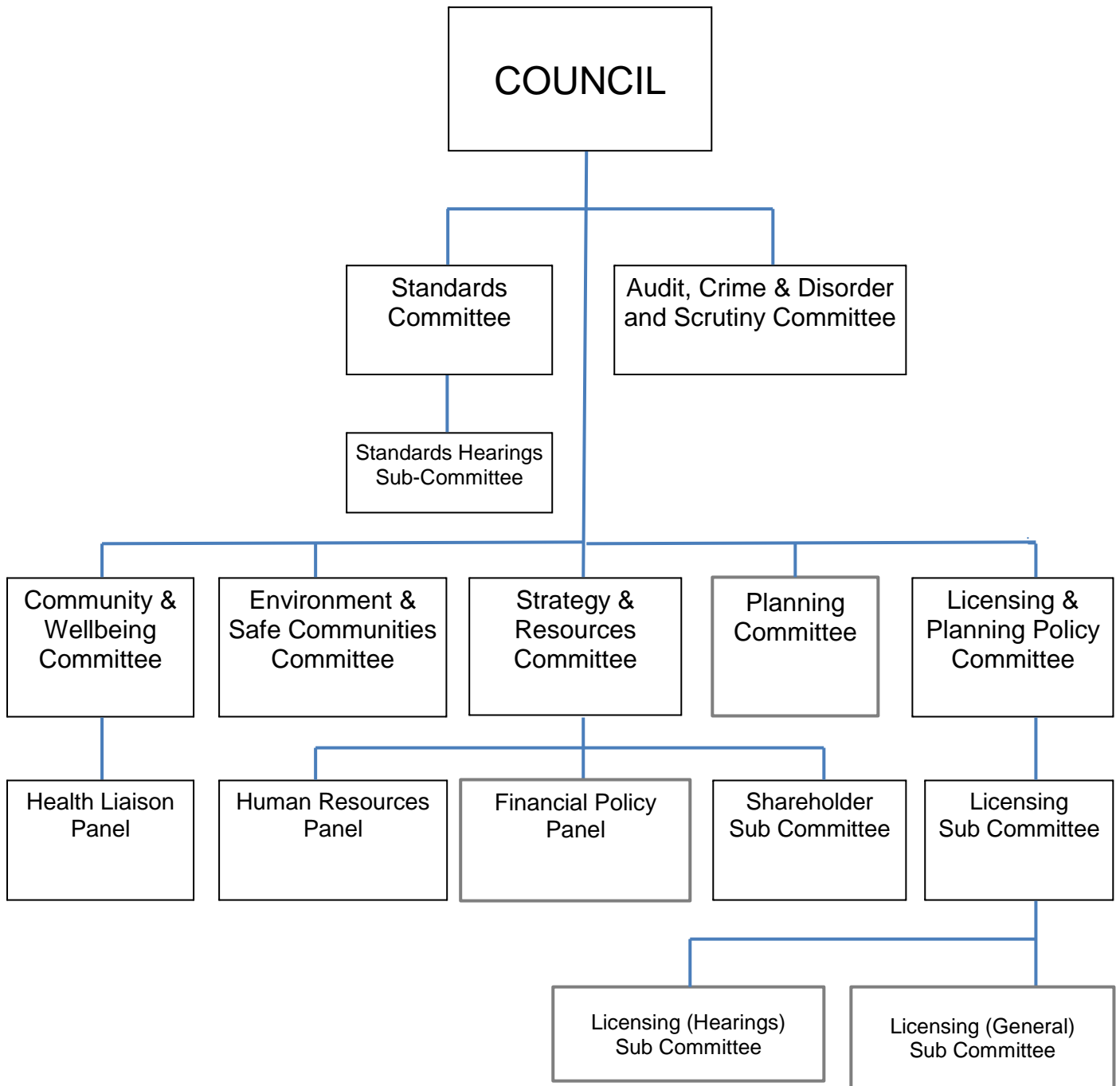
# **Responsibility for Functions**

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# 1 Diagram of Committee Structure



## **2 Committee Responsibilities**

- 2.1 For the avoidance of doubt, if a particular matter or project falls under the Terms of Reference of more than one Committee, the Council may designate one Committee as the lead committee for a matter. The lead committee will have all the powers and functions as it needs to make decisions on that matter, even if some fall within the remit of another committee. A lead committee has the power to refer: the matter to another committee for decision; for comment or recommendation to Council.
- 2.2 No committee, sub-committee, panel, working group or Officer shall take action requiring expenditure unless suitable budgetary provision has been approved.
- 2.3 Decisions of Committees and sub committees taken in exercise of any delegated functions are the decisions of the Council for all purposes unless rescinded. Most decisions cannot be implemented until five working days after publication of the Decision Notice to allow for a Scrutiny call in.
- 2.4 Each Committee can determine the content of any representations to be made to central government, local authority associations, members of parliament, any national organisation concerning any matter within that Committee's remit

### **Committees**

- 2.5 The Council has the following Committees to discharge the functions described in Schedule 1 to this Part:
  - Audit, Crime & Disorder and Scrutiny Committee
  - Community & Wellbeing Committee
  - Environment & Safe Communities Committee
  - Licensing & Planning Policy Committee
  - Planning Committee
  - Strategy & Resources Committee
  - Standards Committee
- 2.6 Committees will normally make the final decision on any matter before it, if they have delegated authority to do so, or will make a report and recommendation to Council if it they do not have such authority. It is also open to a majority of members present and able to vote at a meeting to agree to refer a matter to Council.
- 2.7 The Committees, their terms of reference and number of members on each committee, is set out at Schedule 1 to this Part.

## **Sub Committees & Working Groups**

- 2.8 In addition to the main committees and sub committees, the Council may set up time-limited sub-committees for specific purposes.
- 2.9 Committees may also appoint sub committees and working groups, and if appropriate agree their terms of reference, a chairman and, if considered necessary, a vice chairman and substitute members of the sub-committee or working group.

## **Advisory Panels and Joint Arrangements**

- 2.10 The Council currently has three standing advisory panels which will report as required to the appropriate committee or Council as set out in their Terms of Reference
- 2.11 The terms of reference and membership of the Advisory Panels and Joint arrangements are set out in Schedule 2 to this Part.
- 2.12 Advisory Panels may make recommendations to the relevant committee or directly to the Council if agreed by the relevant Committee.
- 2.13 The Council has also entered into a number of joint arrangements. Further details on these arrangements are set out in Schedule 4 of this Part of the Constitution.

## **Appointment of Members to Committees**

- 2.14 The Council will appoint the Members, Chairman and Vice Chairman to serve on the Committees subject to the right of any political group within the meaning of the Local Government & Housing Act 1989 and any regulations thereto, to make nominations to those appointments.

## **Conflicts**

- 2.15 Members of the Audit, Crime & Disorder and Scrutiny Committee may not scrutinise any decision in which they were involved as a member of a policy Committee.

## **Arrangements for Meetings**

- 2.16 There are currently four cycles of meetings in each municipal year – June/July; September - December; January/February; March/April. Each committee and advisory panel will normally meet at least once in each cycle of meetings and may arrange such special meetings as are necessary. The Planning Committee will meet at least eleven times per year.

## **3 Policy Committees**

- 3.1 The terms of reference for the Committees are set out in Schedule 1 to this Part.

3.2 There are four policy-making committees:

- Community & Wellbeing;
- Environment & Safe Communities;
- Licensing & Planning Policy;
- Strategy & Resources

3.3 In accordance with the aims and objectives set by the Council in its Corporate Plan the principles of Best Value, and within the approved Budget and Policy Framework, Policy Committees will:

- (a) Deal with all policy and operational matters, including statutory responsibilities;
- (b) Develop strategies and policies and put them to the Council for approval;
- (c) Draw up revenue budgets and develop proposals for capital projects, and submit these to the Strategy and Resources Committee for recommendation to Council where these form part of the corporate policy framework;
- (d) Implement approved capital projects;
- (e) Develop and maintain communication and consultation with the public, local businesses, voluntary and other relevant organisations, and form partnerships and influence partners;
- (f) Distribute grant aid or award rate relief in accordance with conditions laid down by Council;  
and
- (g) Determine the level of delegation to officers.

## **4 Sub Committees**

4.1 The terms of reference for all the Sub Committees are set out in Schedule 2 to this Part.

### **Licensing and Planning Policy Committee**

4.2 The Council is responsible for determining a number of different types of licencing applications and other related functions. Two separate sub committees have been established under the Licensing and Planning Policy Committee:

- 4.2.1 the Licensing (Hearings) Sub-Committee will determine matters specific to the Licensing Act 2003;

- 4.2.2 the Licensing (General) Sub Committee will determine all other licensing matters.

**(Note: Political balance requirements do not apply)**

- 4.3 Licensing Sub Committees will be formed of any three members from the Licensing Panel, which is a pool of members appointed by Council.
- 4.4 Those members appointed to the Licensing (Hearings) Sub Committee must be drawn from those who also sit on Licensing & Planning Policy Committee.
- 4.5 The three members appointed for any hearing shall be selected by Democratic Services and the Sub-Committee will appoint a Chairman for that Sub Committee meeting. A Chair of any Licensing Sub Committee must be trained in licensing matters to chair any such meeting.

**Standards Committee**

- 4.6 The Standards 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.

**Strategy & Resources Committee**

- 4.7 The Shareholder Sub-Committee acts in accordance with the terms of reference so far as they relate to any company established as a wholly owned company of the Council.
- 4.8 The Strategy & Resources Committee shall appoint the Chairman of the Shareholder Sub-Committee at its first meeting in the municipal year, who shall hold office until the next such meeting. If the Chairman 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 & Resources Committee. The Chairman, if present, shall preside. If the Chairman is absent Sub-Committee shall elect one of the members present as Chairman of the meeting.
- 4.9 The Sub-Committee will comply with the Political Balance Rules in Section 15 of the Local Government and Housing Act 1989.

**5 Advisory Panels**

- 5.1 The terms of references for all the Advisory Panels are set out in Schedule 3 to this Part.
- 5.2 In accordance with the aims and objectives set by the Council in its Corporate Plan the principles of Best Value, and within the approved Budget and Policy Framework, the following Panels have been established to advise the Council

or its Committees or Sub-Committees on any matter relating to the following subject area

### **Strategy & Resources Committee**

- Financial Policy
- Human Resources

### **Community & Wellbeing Committee**

- Health Liaison

## **6 Joint Arrangements**

6.1 The terms of references for all the Joint Arrangements are set out in Schedule 4 to this Part.

### **Nonsuch Park Joint Management Committee**

6.2 Nonsuch Park is managed and maintained by a Joint Management Committee, comprising an equal number of councillors from Epsom and Ewell and Sutton Borough Councils. Chairmanship rotates between the two councils annually. The two councils fund, on an equal basis, the running of the Park, after taking income into account.

### **Coast to Capital Joint Committee**

6.3 The purpose of the Joint Committee is to approve the Strategic Economic Plan and proposed Growth Deal for the Coast to Capital Local Enterprise Partnership (LEP) area.

6.4 The Coast to Capital area encompasses all of the County of West Sussex, Brighton & Hove, Lewes, Croydon and the four eastern Surrey districts (being this Council, 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 under 2 million residents and over 150,000 businesses and organisations.

6.5 The Joint 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.

### **East Surrey Community Safety Partnership**

6.6 The Council is required under the Crime & Disorder Act 1998 to have a community safety partnership and the Council has agreed to discharged its duty by joining the East Surrey Community Safety Partnership made up of

Mole Valley, Reigate & Banstead, and Tandridge Councils. The strategic vision of the Partnership is “Working together to keep East Surrey safe”.

## **Surrey Police and Crime Panel**

- 6.7 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.

## **7 Scheme of Delegation to Officers**

### **Introduction**

- 7.1 This scheme of delegation authorises the Chief Executive and the Chief Operating Officer to exercise the functions of the Council as set out in this document. It repeals and replaces all previous schemes of delegation.
- 7.2 This scheme is without prejudice to the exercise of the Council’s functions by the Council and the Council’s committees, sub-committees and panels.
- 7.3 The statutory officers’ responsibilities are set out in Schedule 5 below. “Head of Service” means the Heads of Service reporting either to the Chief Executive or Chief Operating Officer. All powers with the scheme of delegation are exercised within approved budgets.

### **General Delegation to Officers**

- 7.4 The Chief Executive and the Chief Operating Officer are empowered to make decisions on behalf of the Council in accordance with the following general principles:-
- (a) if a function, power or responsibility has not been specifically reserved to the 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 the Chief Operating Officer within whose remit the matter falls is authorised to act;
  - (b) the Council and its Committees will make decisions on matters of significant policy. The Chief Executive, and the Chief Operating Officer have express authority to take all necessary actions to implement Council and committee decisions that commit resources, within agreed budgets in the case of financial resources, as necessary and appropriate;
  - (c) the Chief Executive and the Chief Operating Officer are empowered to take all operational decisions, within agreed policies, in relation to the services for which they are responsible;
  - (d) the Chief Executive and the Chief Operating Officer are empowered to take all necessary decisions in cases of emergency or urgency;

- (e) in relation to all delegated authority conferred on the Chief Executive and Chief Operating Officer by this scheme, the Chief Executive may allocate or re-allocate responsibility for exercising particular powers to any officer of the Council in the interests of effective corporate management as he or she thinks fit;
- (f) where there is doubt over the responsibility for the exercise of a delegated power, the Chief Executive, or their nominee, is authorised to act;
- (g) anything delegated to the Chief Legal Officer is also delegated to the Chief Executive;
- (h) 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.

7.5 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, the Chief Operating officer will exercise emergency or urgency powers in the same way.

7.6 In deciding whether or not to exercise delegated powers, the Chief Executive and the Chief Operating Officer should consider whether to consult the appropriate Group Leader, Group Chairman or Committee Chairman 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.

7.7 The Chief Executive and the Chief Operating Officer may authorise officers in their service areas to exercise, on their behalf, powers delegated under this scheme, and 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.

7.8 All delegations conferred under this scheme must be formally recorded in writing by the Chief Executive, and the Chief Operating Officer as the case may be (including for the avoidance of doubt any delegation under paragraph 7.4 (e) and 7.7 above). Any decision taken under such authority shall remain their responsibility, and must be taken in their name. The Head of Planning and the Planning Development 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.

7.9 The Chief Executive will make such arrangements as she considers appropriate to maintain a central record of all delegations under this scheme. The record will be available for public inspection. Subject to any specific restriction in writing:



- 7.9.1 a reference to any other officer will include a person who is deputing (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;
- 7.9.2 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.
- 7.10 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.
- 7.11 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 interests of the Council.
- 7.12 Where an officer referred to in paragraph 7.7 above is absent from the workplace for a period of time that 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.
- 7.13 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 a member body except in cases of emergency.
- 7.14 Without prejudice to the generality of the foregoing, the Chief Executive and the Chief Operating Officer shall have the power:-
- (a) to take all lawful action consistent with overall Council policy to deliver agreed strategy, plans and policy within their area of responsibility and within approved budgets. This shall include, but not exhaustively:-
    - (i) invitation and acceptance of tenders in accordance with Contract Standing Orders;
    - (ii) submission of bids for funding;
    - (iii) write-off of irrecoverable debts;
    - iv) virement (within the budget framework);
    - (v) disposal and acquisition of assets;

- (vi) service and placing of any necessary statutory or other notices (other than those expressly reserved to the Council or a Committee);
  - (vii) in consultation and with the consent of the Chief Legal Officer 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.
- (b) to put in place management arrangements, which define the area of responsibility of all officers under their area of responsibility;
  - (c) 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;
  - (d) to determine staffing arrangements within approved budgets, subject to agreement on grading with the Head of Human Resources & Organisational Development and conformance with Council policies;
  - (e) 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.

*[For the avoidance of doubt the appointment of the Chief Executive and Chief Operating Officer shall be made by a duly appointed member body in accordance with the Officer Employment Rules. The relevant Committee Chairman will be consulted upon the appointment of a Head of Service but shall take no other part in the process.]*

## **Taking Decisions**

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

- (a) the views of the relevant Committee Chairman following the application of the consultation criteria set out in paragraph (c) below;
- (b) 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 Chairman/Chairmen and local members, where the issue relates to a specific area, should take place;
- (c) consultation in accordance with the Council's Consultation Strategy and the views emanating from that process;

- (d) the range of available options;
- (e) the staffing, financial and legal implications;
- (f) the assessment of any associated risks in accordance with the Council's Risk Management Strategy;
- (g) the involvement of appropriate statutory officers;
- (h) the relevance of any regional or national guidance from other bodies;
- (i) the Council's Constitution, its Contract and Financial Procedures and Regulations, all relevant guidance, legislation and Codes of Practice;
- (j) the need to secure Best Value.

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

### **Scrutiny**

7.17 For the purposes of Audit, Crime & Disorder and Scrutiny Committee:

- (a) a report should be presented annually to the Audit, Crime & Disorder and Scrutiny Committee setting out significant decisions taken by Officers under delegated powers in the previous year;
- (b) any member may request that (with the exception of decisions made by the Planning Committee) decisions taken by officers under delegated powers are scrutinised by the Audit, Crime & Disorder and Scrutiny Committee;
- (c) 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.

### **Legal and Procedural**

7.18 The Chief Legal Officer is authorised:-

- (a) 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;
- (b) 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 Chief Legal Officer considers that such action is necessary to protect the Council's interests;
- (c) to instruct counsel, solicitors and other experts for legal proceedings, public inquiries, and other matters involving the Council;

- (d) to enter objections to any proposal affecting the Borough, the Council or the inhabitants of the Borough.

7.19 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.

### **General Indemnity**

7.20 The Council has given a general indemnity to any officer acting in the purported discharge of any authority delegated to him for any action, costs, claim or liability incurred by him or her in the form in Schedule 6.

### **Proper Officer Functions**

7.21 A list of Proper Officer functions will be maintained by the Chief Legal Officer.

### **Maintenance, Review and change to schemes of delegations**

7.22 The Chief Executive and the Chief Operating Officer will establish and maintain a scheme of delegation for her/his directorate or budget area 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 Chief Operating Officer in certain circumstances.

7.23 The Chief Executive and the Chief Legal Officer are authorised to approve any changes to any scheme of delegation.

### **Planning Scheme of Delegation**

#### **Introduction**

7.24 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 matters officers can determine and which the Planning Committee must determine.

#### **Scheme of Delegation**

7.25 The Head of Planning, Planning Development 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 7.26, 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 Chairman of Planning Committee accordingly.

7.26 The matters which shall be determined by the Planning Committee are:

- a) Applications for planning permission for major<sup>1</sup> development (except where the application is made under section 73 of the Town & Country Planning Act 1990 – a minor material amendment/development without compliance with original conditions);
- b) 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;
- c) Applications for planning permission or listed building consent that are submitted by or on behalf of any Member, the Chief Executive, Chief Operating Officer and Heads of Service, including the Head of Planning, Planning Development Manager and Planning Policy Manager
- d) Decisions to confirm a Tree Preservation Order where there has been an objection to the making of the order.
- e) Applications or other matters called-in for determination by the Planning Committee by a Member in accordance with Paragraph 3, where the call-in request has not been withdrawn.

7.27 A Planning Committee Member or a Member representing the Ward in which development is proposed, may call in a matter for determination by the Planning Committee in accordance with the following procedure:

- a) A Councillor wishing to call an application in must do so by notice in writing (email is acceptable) to the Case Officer, copied to the Head of Planning and Planning Development Manager within 28 days of the date public notice is given of the application;
- b) A request shall not be valid if submitted before an application has been submitted, in anticipation of an application, for example, following pre-application consultation on a proposal.

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<sup>1</sup> “Major Development” is defined under The Town and Country Planning (Development Management Procedure) (England) Order 2015 as:

- (a) the winning and working of minerals or the use of land for mineral-working deposits;
- (b) waste development;
- (c) the provision of dwellinghouses where—
  - (i) the number of dwellinghouses to be provided is 10 or more; or
  - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more
 and it is not known whether the development falls within sub-paragraph (c)(i);
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more;

- c) A Councillor shall not be able to call-in any of the following matters for determination by the Planning Committee:
- i) Applications for Certificates of Lawfulness for Proposed Use or Development.
  - ii) Applications for Certificates of Lawfulness for Existing Use or Development
  - iii) Any matter where development is or may be permitted by development order, but where the prior approval of the Council is required.
  - iv) Consultations on applications from neighbouring authorities.
  - v) Approvals required under conditions attached to permissions or consents (for the avoidance of doubt, this shall not prevent the Planning Committee, when determining an application to require that an approval under condition be referred for determination by the committee).
  - vi) Applications or notifications of work to trees protected by Tree Preservation Order or Conservation Area status.
  - vii) Screening and scoping opinions under provisions relating to Environmental Impact Assessment.
  - viii) Matters relating to prior notification of development authorised by an Act of Parliament (including 56 day telecommunications development).
  - ix) Consultation by Electricity Undertakers.
  - x) Matters related to Hazardous Substance Consent.
  - xi) Applications in relation to non-material change to a planning permission.
- d) 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 Planning in consultation with the Chairman of Planning and the members concerned.

## **Section 106 Agreements**

7.28 The Head of Planning is authorised to:

- 7.28.1 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.
- 7.28.2 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.

## Schedule 1: Committees

Committee	Terms of Reference	Number of Councillors
<p>Audit, Crime &amp; Disorder Scrutiny Committee</p>	<ol style="list-style-type: none"> <li>1 Exercise the Council's scrutiny and review functions in accordance with Article 6 of Part of this Constitution and the Scrutiny Procedure Rules set out in Part 4; including overall responsibility for audit and governance frameworks (including functions of an audit committee);</li> <li>2 Oversee compliance with the Council's duties concerning Best Value;</li> <li>3 Monitor implementation of recommendations from the external and internal auditors;</li> <li>4 Monitor progress on the Council's Corporate Plan;</li> <li>5 Review and approve the Annual Governance Statement.</li> <li>6 Exercise the Council's scrutiny and review functions in relation to local crime and disorder matters within the remit of the Crime and Disorder Reduction Partnership in accordance with Article 6 of Part 2 of this Constitution</li> </ol>	<p>10</p>
<p>Community &amp; Wellbeing Committee</p>	<ol style="list-style-type: none"> <li>1 The development and promotion of sport, leisure, cultural and recreational activities</li> <li>2 Management of parks, open spaces and countryside and Allotments</li> <li>3 The management of The Playhouse, Bourne Hall, Ewell Court House, The Rainbow Centre, Bourne Hall Museum</li> <li>4 Services for young people.</li> <li>5 Affordable housing</li> <li>6 Housing strategy and investment programme</li> </ol>	<p>10</p>



	<ul style="list-style-type: none"> <li>7 Housing standards, homelessness, homelessness prevention and advice, housing needs assessment</li> <li>8 Housing benefit - welfare aspects</li> <li>9 Private sector housing and administration of housing grants</li> <li>10 Personal social services for older and disabled persons including community meals services, community alarm, day centres, community transport,</li> <li>11 Grounds maintenance</li> <li>12 Grant aid</li> <li>13 Consultations on health service provision</li> <li>14 Armed forces covenant</li> <li>15 Local NHS Services</li> <li>16 Work within the Voluntary Sector</li> <li>17 Traveller &amp; Gypsy site management</li> <li>18 Amenity management and maintenance public spaces including parks</li> <li>19 Tourism</li> <li>20 Support &amp; development of sports, the arts, and other leisure activities</li> <li>21 No decisions which result in amendments to the agreed budget or additional spend may be made by the Committee unless and until the it has been approved by Strategy &amp; Resources Committee</li> </ul>	
<p>Environment &amp; Safe Communities Committee</p>	<ul style="list-style-type: none"> <li>1 Transportation policy</li> <li>2 Waste management refuse collection and recycling</li> <li>3 Environmental improvement schemes</li> <li>4 The quality of the public realm, including cleansing</li> </ul>	<p>10</p>

	<ul style="list-style-type: none"> <li>5 Highway matters that are the responsibility of the Borough Council and drainage</li> <li>6 Community safety &amp; crime and disorder prevention</li> <li>7 Parking</li> <li>8 Contaminated land</li> <li>11 Environmental protection, pollution control</li> <li>12 Health and safety</li> <li>13 Burials, cemeteries and closed churchyards</li> <li>14 Street trading</li> <li>15 Street naming and numbering</li> <li>16 The provision and management of parking and the fixing of charges and parking enforcement</li> <li>17 No decisions which result in amendments to the agreed budget or additional spend may be made by the Committee unless and until it has been approved by Strategy &amp; Resources Committee.</li> </ul>	
<p>Licensing &amp; Planning Policy Committee</p>	<ul style="list-style-type: none"> <li>1 To consider and approve 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>2 To consider and recommend for approval to Council, submission versions of Development Plan Documents;</li> <li>3 To consider and approve final versions of Supplementary Planning Documents, and any subsequent changes to the Development Plan not constituting a new or substantially revised Development Plan Document;</li> <li>4 To consider and approve other informal policy guidance for adoption;</li> </ul>	<p>10</p>

	<p>5 To consider and approve the Council's Local Development Scheme and Annual Monitoring Report;</p> <p>6 To consider and approve (i) draft Conservation Area Appraisals and Management Plans for public consultation and (ii) the final version of Conservation Area Appraisals and Management Plans;</p> <p>7 To consider and approve matters related to the Community Infrastructure Levy (CIL) leading up to the examination in public and the adoption of the CIL charging schedule;</p> <p>8 To consider and comment upon other authorities' or stakeholders' planning policy documents;</p> <p>9 To respond to government consultations on draft planning legislation and proposed planning policies;</p> <p>10 Land use policy statements and briefs for specific areas</p> <p>11 To consider any other planning policy matters not included in any of the above as deemed necessary by the Head of Planning</p> <p>12 Hackney Carriage and Private Hires policies and procedures</p> <p>13 To consider and determine (or delegate to a Licensing Sub-Committee)</p> <ul style="list-style-type: none"> <li>• opposed and/or contentious applications made under the Licensing Act 2003 and/or applications for review under the said Act;</li> <li>• Opposed and/or contentious applications made under the Gambling Act 2005 and/or applications for review under the said Act;</li> <li>• Opposed and/or contentious applications for the granting, renewal, transfer or revocation of sex establishment licences; private hire and public hire licences;</li> </ul>	
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	<p>14 To approve a licensing policy statement and gambling policy statement for recommendation to the Council and to keep this under review in accordance with the Licensing Act 2003 and the Gambling Act 2005 respectively;</p> <p>15 To ensure members of the Licensing Panel receive the necessary training to undertake the administration of applications before them.</p> <p>16 Safeguarding the historic environment.</p> <p>17 No decisions which result in amendments to the agreed budget or additional spend may be made by the Committee unless and until the it has been approved by Strategy &amp; Resources Committee</p>	
Planning Committee	<p>1 Deal with regulatory matters required by, and flowing from, Town and Country Planning legislation including matters relating to high hedges;</p> <p>2 Develop and maintain communication and consultation with the public, local businesses and relevant organisations;</p> <p>3 Determine the level of delegation to officers</p>	13
Strategy & Resources Committee	<p>1 The Budget and Policy Framework, for submission to the Council</p> <p>2 Implementation and monitoring of treasury management policies</p> <p>3 Constitution<sup>2</sup></p> <p>4 Human Resource Management (HR policies and practices, salaries, conditions of service)</p> <p>5 Asset management including the purchase, management and disposal of real property owned or held by the Council (note other committees may have management responsibilities restricted to service provision)</p>	10

<sup>2</sup> Note remit of Standards Committee on Rules of Procedure

	<ol style="list-style-type: none"> <li>6 Exercise of the Council's powers as Trustee of any land or money held by the Council in trust</li> <li>7 Electoral matters including polling stations, ward boundaries</li> <li>8 Community right to Challenge and Community Right to bid for Assets of Community Value</li> <li>9 To exercise the Council's powers and rights as a shareholder in respect of any company in which the Council has a shareholding</li> <li>10 Investment strategy</li> <li>11 The Corporate Governance Framework (jointly with the Chairmen of Standards and Audit, Crime &amp; Disorder and Scrutiny Committees)</li> <li>12 Data quality and corporate risk management</li> <li>13 The local economy and regeneration</li> <li>14 Emergency planning and business continuity</li> <li>15 Council tax &amp; Housing benefits administration</li> <li>16 Civic and ceremonial matters</li> <li>17 Dealing (at 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.</li> </ol>	
Standards Committee	<ol style="list-style-type: none"> <li>1 To assist and advise the Council in meeting its duty to promote and maintain high standards of conduct by members.</li> <li>2 To monitor and review the effectiveness of the Code of Conduct for members.</li> <li>3 To monitor, review and propose amendments to the Council's Rules of Procedure.</li> <li>4 To consider and determine (or delegate to a Hearings Sub-Committee) complaints referred by the Monitoring Officer for determination under the Code of Conduct for members</li> </ol>	9

	<p>5 To ensure that the general public are informed of the effectiveness of the Council's promotion of high standards of conduct by members and effectiveness of arrangements to deal with breaches of the Code of Conduct for members.</p> <p>6 To grant dispensations relieving a member from either or both of the restrictions in section 31(4) of the Localism Act 2011.</p>	
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## Schedule 2: Sub Committees

Sub Committee	Terms of Reference	Number of Councillors
<p>The Licensing (Hearings) Sub Committee</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>3</p> <p><b>NOTE:</b> this is the legal minimum and to be quorate all three councillors must attend</p>
<p>The Licensing (General) Sub Committee</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> </ul>	<p>3</p>

	(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.	
Shareholder Sub Committee  (Politically balanced)	<p><b>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>(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>	5
Standards Hearing Sub-committee	To hear and decide what action should be taken in respect of allegations against members.	3

### Schedule 3: Advisory Panels



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

Advisory Panel	Terms of Reference	Number of Councillors
Financial Policy Panel	<p>1 To advise the Strategy and Resources Committee on:-</p> <p>(a) all matters relating to the Budget and Policy Framework (including the setting of staff pay);</p> <p>(b) new legislation or government policy relating to local government finance;</p> <p>(c) procurement strategy and those matters that have budget or procurement implications for more than one committee;</p> <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>8</p> <p>Membership to include: Chairmen of the Environment Safe Communities, Community &amp; Wellbeing &amp; Strategy &amp; Resources</p>
Health Liaison Panel	<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>7</p>

	<p>2 Working in partnership with a Member from each of the following – Elmbridge District Council, Mole Valley District Council, Reigate &amp; Banstead District 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> <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>	
Human Resources Panel	<p>1 To advise the Strategy and Resources Committee on:-</p> <p>(a) employment policies and good practice (excluding the setting of staff pay);</p> <p>(b) staff wellbeing .</p> <p>2 The Panel is able to invite the Staff Consultative Group to attend the Panel as and when required or to present such reports as it may require.</p>	6

## Schedule 4: Joint Arrangements

Joint Committee	Terms of Reference	Number of Councillors
Nonsuch Joint Management Committee	<p>Nonsuch Park is managed and maintained by a Joint Management Committee, comprising an equal number of councillors from Epsom and Ewell and Sutton Borough Councils. Chairmanship 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>	3
Coast to Capital Joint Committee	To approve the Strategic Economic Plan and proposed Growth Deal for the Coast to Capital Local Enterprise Partnership (LEP) area.	1
East Surrey Community Safety Partnership	<ol style="list-style-type: none"> <li>1 To promote integration of community safety priorities into mainstream policies and services</li> <li>2 To ensure the strategic vision is translated into real change for East Surrey</li> <li>3 To reduce alcohol and drug related harm and reduce re-offending</li> <li>4 To encourage closer collaborative working on shared concerns</li> <li>5 To increase community reassurance through co-ordinated awareness- raising campaigns</li> </ol>	1

	<p>6 To provide a voice for East Surrey at the Surrey Community</p> <p>7 To identify funding opportunities and lead on relevant funding submissions</p> <p>8 To contribute to and support the delivery of relevant County wider strategies</p>	
Surrey Police & Crime Panel	To carry out the functions set out in the Police Reform and Social Responsibility Act 2011.	1

## Schedule 5 - Chief Officers – Areas of Responsibility

Post	Areas of Responsibility
<b>Chief Executive</b>	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers) for all services.</p> <p>The Chief Executive (Head of Paid Service) is the Proper Officer for all statutory purposes unless otherwise determined by them.</p>
<b>Chief Finance Officer</b>	<p>Responsible for the proper administration of the Council's financial affairs under section 151 Local Government Act 1972, Section 114 of the Local Government and Finance Act 1988 and Accounts and Audit Regulations and Guidance.</p>
<b>Chief Legal Officer</b>	<p>To act as the Council's Monitoring Officer in accordance with S 5 of the Local Government and Housing Act 1989 as amended.</p>

## **Schedule 6 - Indemnity to Staff**

- 1.1 The Borough 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 Borough 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 Borough 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.

### **Exceptions**

- 1.2 The indemnity will not extend to loss or damage directly or indirectly caused by or arising from:-
- (a) Fraud, dishonesty or a criminal offence on the part of the employee;
  - (b) Any neglect, error or omission by the employee otherwise than in the course of his duties;
  - (c) Liability in respect of losses certified by the District Auditor as caused by wilful misconduct.
- 1.3 The indemnity will not apply if an employee, without the written authority of the Borough 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.
- 1.4 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.

# PART 4

## Rules of Procedure

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## SECTION 1 – Council Rules of Procedure

Issued: July 2002; Revision July 2012; December 2018; December 2019

### 1. Introduction

1.1 The purpose of these Rules of Procedure (often referred to as the ‘Standing Orders’) is to regulate the proceedings and business of the Council, Committees, Sub Committees and Advisory Panels of the Borough of Epsom and Ewell to ensure that the Council’s business is carried out transparently and in accordance with good governance. The Rules are there to guide and assist Members with good decision making. They should not be used to obstruct the process of working efficiently and effectively.

### 2. Definitions

2.1 In these Rules of Procedure the following terms have the following meanings. However, if in order to make sense of a passage a different meaning needs to be attributed to a word or phrase, then that meaning may be given.

Advisory Panels	refers to bodies which report as required to the appropriate committee as set out in their Terms of Reference
Annual Meeting	means the first ordinary meeting of the Council of each municipal year
Budget Decision	means for the purposes of the FCR any decision defined as such under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 or such successor provision
CPR	means Committee Rule of Procedure, the rules which regulate the proceedings and business of meetings of the Committees, Sub Committees and Advisory Panels of the Council of the Borough of Epsom and Ewell
Chair/Chairman	means the Member currently appointed or elected to chair/chairman of a Committee, Sub-Committee or Advisory Panel or appointed as such for a Council meeting

Chief Executive	refers to the Council's Head of Paid Service, designated under Section 4 of the Local Government and Housing Act 1989
Chief Finance Officer	refers to the Council's Chief Finance Officer designated under section 151 of the Local Government Act 1972
Committee	refers to a committee of the Council (whether a policy or regulatory committee) unless a distinction is made in the relevant Standing Order
Constitution	means the Council's Constitution under Section 37 of the Local Government Act 2000
Chief Finance Officer	refers to the Council's Chief Finance Officer designated under section 151 of the Local Government Act 1972
Council	means Epsom and Ewell Borough Council or one or more of its Committees, Sub-Committees, Advisory Panels or Officers acting on the Councils' behalf, using powers which have been lawfully delegated as the context requires. Any reference to full Council or if the context so refers, shall be to the meeting of all the Members
Deputy Mayor	the Member elected to be the Deputy Mayor of Epsom and Ewell Borough Council
FCR	means Full Council Rule of Procedure, the rules which regulate the proceedings and business of meetings of the Council and which may be referred to as 'Standing Orders'
Group	means a political group as defined in the Local Government (Committees and Political Groups) Regulations 1990
Mayor	the Member elected to be Mayor of Epsom and Ewell Borough Council
Meeting	means a meeting of the full Council, a committee, sub-committee or advisory panel

Member	means a Member of the Council, in relation to any committee, sub-committee, advisory panel or joint committee or any outside body as appropriate, it means a person who has been appointed to such whether or not they are entitled to vote and where the context so requires, the reference will refer to the appointed member of such committee, sub-committee, advisory panel or joint committee and not a member who may be substituting for such absent member
Monitoring Officer	means the Chief Legal Officer as the person designated as monitoring officer under section 5 of the Local Government and Housing 1989. If that person is unable to act owing to absence or illness, the expression means a person nominated as his deputy under subsection (7) of that section
Officer	means an employee of the Council
Petition	means a Petition falling within the Petition Scheme (Article 16)
Policy Committee	is a collective term for one or more of the Council's policy committees as described in Part 3 of the Constitution
Standing Orders	refers to the FCR or CPR as the context may require
Sub-committee	refers to a sub-committee of a committee
Vice Chair/Chairman	means the Member currently appointed or elected to vice chair/chairman of a Committee, Sub-Committee or Advisory Panel
Working Day	means any day on which the Town Hall, Epsom is open to the public, excluding Saturdays, Sundays and Bank Holidays

2.3 For the avoidance of doubt, as long as the context of a passage allows:

- (a) Singular expressions include plural meanings;
- (b) Plural expressions include singular meanings;

- (c) Masculine references include feminine meanings;
- (d) Feminine references include masculine meanings

### **3. General**

- 3.1 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.
- 3.2 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:
  - (a) A notice of motion has been given under Standing Orders including an intention to suspend the Council's rules of procedure; or
  - (b) A motion has been moved under Standing Orders which can be moved without notice and at least two thirds of the whole number of members of the Council is present.
- 3.3 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 or Chair/Chairman, whose decision on the matter will be final.
- 3.4 All references to the Mayor and Chair/Chairman of a meeting will include the Deputy Mayor and Vice Chair/Chairman as the context so requires or is deemed necessary, where such sits in the absence or in the place of the Mayor or Chair/Chairman.

## **Section 1(A) Standing Orders of the Council**

### **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 A meeting of the full Council can be called at any time by the Mayor (an extraordinary meeting).
- 1.4 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).
- 1.5 Any five members acting together may direct that a meeting of the full Council be called (an extraordinary meeting). The members shall first send a joint written request asking the Mayor to call a meeting (the request should be sent to the Chief Legal Officer). If the Mayor refuses or does not call a meeting within seven days after receiving the request, the members may direct the Chief Legal Officer to do so forthwith. The request shall set out the business to be considered at the meeting.
- 1.6 In relation to every meeting, the Chief Legal Officer shall send to all members a Summons to the meeting at least five clear working days before the day of the meeting.
- 1.7 The Summons shall specify the business proposed to be transacted at the meeting to which it relates.
- 1.8 Unless the contrary is set out in the Summons, meetings of the Council shall begin at 1930 hours and shall be held in the Council Chamber at The Town Hall in Epsom.

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

- 2.1 At the Annual Meeting, the order of business shall be as follows:
  - (a) appointment of the Mayor;
  - (b) appointment of the Deputy Mayor;
  - (c) to receive any declarations of interest;
  - (d) consideration of the minutes of the previous meeting(s);
  - (e) any business required by statute to be done;

- (f) approval of the Constitution, with or without changes;
- (g) appointments to Committees (including any Joint Committees), Sub-Committees and Panels in accordance with the political balance rules as appropriate;
- (h) appointments of Committee, Sub-Committee and Panel Chairmen or confirmation of such if such appointments have been previously made on a fixed term basis and that fixed term has not expired;
- (i) appointments to Outside Bodies except where appointment to those bodies has been delegated by the Council to a Chairmen or confirmation of such, if such appointments have been previously made on a fixed term basis and that fixed term has not expired;
- (j) 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;
- (k) approve a programme of ordinary meetings of the Council for the year.

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

- (a) appointment of a person to preside if the Mayor and Deputy Mayor are both absent;
- (b) to receive any declarations of interest;
- (c) consideration of the minutes of the previous meeting(s);
- (d) any business required by statute to be done;
- (e) to receive such communications or deal with such business as the Mayor may wish to lay before the Council;
- (f) business remaining from the previous meeting;
- (g) questions from Members;
- (h) Chairs/Chairmen's statements;
- (i) recommendations from Committees;
- (j) reports from Officers;
- (k) motions on notice;
- (l) any other business set out in the Summons or which may be added pursuant to Standing Orders;
- (m) 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:

- (a) appointment of a person to preside if the Mayor and Deputy Mayor are both absent;
  - (b) to receive any declarations of interest;
  - (c) 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 Council decides should be exempt 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.

### **FCR 3 - Quorum**

- 3.1 No business may be transacted at a meeting of the full Council unless at least one quarter of the members of the Council are present (ten Members).
- 3.2 Where more than one third of the members of the Council become disqualified at the same time, then, until the number of members is increased to not less than two-thirds of the whole number of members, the quorum shall be determined by reference to the number of members remaining qualified.
- 3.3 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 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.

### **FCR 4 - Voting**

- 4.1 Subject to the provisions of any enactments all questions 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 the 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 member 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 Chair/Chairman of the meeting shall have a second or casting vote.
- 4.5 The number of members voting for, against or abstaining on a motion, shall be recorded in the minutes.

#### **Request for a Recorded Vote**

- 4.6 If a Member present at the meeting requests a recorded vote on a matter, such member 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.
- 4.7 Unless a recorded vote has been taken, immediately after any vote has been taken, following a request to that effect from any member, their vote for or against the motion, or their abstention, shall be recorded in the minutes.

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

- 4.8 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 member 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.

### **FCR 5 - Speeches and Recorded Vote for Budget Decisions**

- 5.1 The Chair/Chairman of Strategy & Resources Committee will present the Council's Budget at the Budget meeting. His 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 member wishing to speak on the Budget will have 3 minutes to do so, any amendment will be considered in accordance with Standing Orders. The Chair/Chairman of Strategy & Resources Committee will conclude the debate on the Budget with a reply lasting no longer than 10 minutes.



- 5.2 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 or amendment or abstaining from voting, will be taken down in writing and entered into the minutes.
- 5.3 Recorded votes shall be conducted by an appropriate officer calling the name of each Member present who shall state whether they are voting 'for' or 'against' or whether they wish to 'abstain'. The officer shall record the voting and inform the Mayor of the result.

## **FCR 6 - Appointment of Committees and Chairmen**

- 6.1 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.
- 6.2 The 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.
- 6.3 Subject to any statutory provision, the full Council:-
- (a) 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;
  - (b) may at any time dissolve a Committee, sub-committee, advisory panel or other body, joint committee or alter its membership.
- 6.4 The Council may, at any meeting, including the Annual Meeting appoint a Chair/Chairmen and Vice-Chair/Chairmen of committees, sub-committees, advisory panels and joint committees. It may also appoint members of committees, sub-committees, advisory panels, joint committees 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 meeting of the next Annual Meeting. Appointments to vacancies on joint committees or nominations to outside bodies shall be made by Council at the next ordinary or extraordinary meeting of Council.
- 6.5 At any one time a Member may hold the office of Chair/Chairman of only one of any of the following committees:
- (a) any of the four policy committees
  - (b) Planning
  - (c) Audit, Crime & Disorder and Scrutiny Committee

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

- 7.1 The appointment of the Mayor is to be the first business at the Annual Meeting of the full Council.
- 7.2 In the event of a casual vacancy in the office of Mayor, the Mayor will be appointed in accordance with section 88 of the Local Government Act 1972.
- 7.3 The Mayor, if present, shall preside at meetings of the full Council subject to the provisions of Article 5.3 in Part 2. If the Mayor is absent, the Deputy Mayor shall preside at a meeting.
- 7.4 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.
- 7.5 All powers or duties of the Mayor at a meeting may be exercised by whoever is appointed to preside over the meeting.
- 7.6 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.
- 7.7 Subject to Standing Orders, the order of business to be set out in a Summons shall be approved by the Mayor.
- 7.8 The Mayor shall decide whether any question or motion submitted by a member is in order and should be included in the summons. If any question or motion is ruled out of order, the member or members who gave it shall be informed of the reason for such ruling.
- 7.9 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.
- 7.10 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.
- 7.11 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.
- 7.12 Whenever the Mayor stands up during a debate any member then standing shall resume their seat and the Members shall be silent. The Mayor may interrupt the debate to restore order by using the command “order”, or by striking the gavel. The Members must then be silent until the Mayor calls on a Member to speak.

## **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 part open to the public, the Mayor shall order that part 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 Member:
- (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 Member.

then the Mayor will name the Member and require such Member to apologise and or refrain from such behaviour immediately.

- 8.4 If a Member, 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 Member from speaking for some or all of the rest of the meeting;
  - (b) order the Member to leave the meeting for all or part of the remaining business.
  - (c) order the Member 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 Members or the public shall be final.

### **Mobile phones, filming & recording of Meetings**

- 8.6 Audible alerts on mobile phones must be turned off.
- 8.7 Any recording or filming shall be undertaken in accordance with the Protocol included in Part 5 of the Constitution. The purpose of the Protocol is to provide guidance, particularly, for members of the public as well as the media

on the taking of photographs and / or the audio / visual recording of any Council meeting held in public.

- 8.8 The Mayor has absolute discretion to terminate or suspend any of these activities if, in his/her opinion, continuing to do so would prejudice or unduly disrupt proceedings at the meeting.
- 8.9 Whilst no prior permission is required, any person wishing to film, photograph or record such a meeting, is requested to advise the Mayor of their intention to do so.
- 8.10 The Mayor shall advise Members and the public that the meeting is being recorded. In order to maintain orderly conduct or prevent misbehaviour or disruption of the meeting, the Mayor may exclude any individual who is recording the meeting.
- 8.11 The protocol also refers to the use of “Social Media” at meetings and makes clear that there are no restrictions placed on anyone at the meeting using Twitter, blogs, Facebook or similar “social media” provided that the Mayor does not consider their actions are disrupting the proceedings of the meeting leading to disorderly conduct and/or misbehaviour.

### **Banners and placards**

- 8.12 The Mayor will require to be left outside the meeting room any banner, placard or other object being carried by any person.

### **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 Standing Order cannot be suspended.

### **FCR 10 - Adjournment of meetings**

- 10.1 The 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 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 the Chief Legal Officer to each Member specifying the business to be transacted.

### **FCR 11 - Chairs/Chairmen's Statements to Council**

- 11.1 The Chair/Chairman of each of the policy committees is able to submit a Chair/Chairman's statement to be included as a standard item on the agenda for each Council meeting (excluding the Annual meeting and budget meeting). This will be a short statement briefing Members on the current events and issues relating to the relevant committee's area of work.
- 11.2 At the conclusion of all of Chair/Chairmen's Statements, 15 minutes will be set aside for Members to ask questions on the statement of any Chair/Chairman.

### **FCR 12 - Questions from Members of the Council**

- 12.1 Ordinary meetings except the budget meeting will have 30 minutes for members of the Council to ask questions if the requirements of this Standing Order are satisfied.
- 12.2 Notice of the question must be given in writing to the Chief Legal Officer no later than ten clear working days before the day of the meeting.
- 12.3 The question must be addressed to the Mayor or the Chair/Chairman 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 Chief Legal Officer will reject a question, if it:
  - (a) is not about a matter falling within this Standing Order;
  - (b) 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;
  - (c) is defamatory, frivolous or offensive;
  - (d) 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;
  - (e) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or

- (f) 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 member gives notice of more than one question, their second or subsequent question(s) shall appear after all of the first questions submitted by other members, and so on.
- 12.7 Where practicable, a written answer to each question shall be circulated to all members 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 The Mayor shall allow up to 30 Minutes for questions and their replies at the meeting. If a question is being asked or answered at the time limit, the answer must be completed within 5 minutes. 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 Member. If no written answer has been circulated to Members in advance, an explanation shall be provided as to why it has not been practicable to provide a written answer.
- 12.10 For a question having been called at the meeting, the Member asking the question, is allowed to ask one supplementary question, which must arise from the reply provided.

### **Member asking question absent from meeting**

- 12.11 If a Member asking a question (the questioner), knows they will be absent from the Council Meeting, they may notify the Mayor which other Member will ask the question on their behalf. Such nominated member shall have the same rights as the questioner. If the Member is absent and no substitute has been appointed, the Mayor shall first ask whether any other Member from within the same Group as the questioner wishes to take the opportunity to ask a supplementary question. If the Member concerned is not in a group or no member of the group wishes to ask a supplementary question, then any other Member 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: 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 practicable, and no later than noon, on the day of the meeting. The time for questions from Members will be extended to allow the asking of and reply to such question at the meeting.

### **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 Article 16 to the Constitution.
- 13.2 Petitions relating to individual planning and licensing applications and other statutory petitions are not included in the Petitions Scheme.

### **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 the 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 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 Council or a committee shall be moved unless, in either case: -
  - (a) it is recommended by a committee; or
  - (b) notice of the motion has been given by at least seven Members of the Council acting together.

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

- 14.3 Subject to Standing Orders on motion, where notice must be given in writing and those which may be moved without notice, any Member of the Council may propose a motion at any meeting of the Council.
- 14.4 A notice of motion (other than a recommendation from a Committee) must be given on the prescribed form (which can be obtained from Democratic Services) and delivered to the Chief Legal Officer 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 Member 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 Chief Legal Officer 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 Member giving the notice wishes to withdraw or proposes the motion for a later meeting. Motions shall be formerly moved by the member who gave notice, or on the written request of this Member, by another Member on their behalf.

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

14.8 All motions must be relevant to some matter on which the Council

- (a) has powers or duties, or
- (b) which affects the Borough, or
- (c) something of national significance where there is a wish to acknowledge or celebrate.

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

14.10 If notice is given of any motion which in the opinion of the Mayor, following consultation with the Chief Legal Officer is out of order it shall not be accepted or placed on the agenda. If a motion is not accepted the member who gave the notice will be informed in writing. A Motion can be ruled out of order if :

- (a) is not about a matter for which the Council has responsibility or which affects the Borough;
- (b) is defamatory, frivolous or offensive;
- (c) is in breach of Standing Orders on motions challenging previous decisions;
- (d) requires disclosure of confidential or exempt information.

### **Motion not moved at Meeting**

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

### **Withdrawal of a Motion**

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



## **Motions without notice**

14.13 The following motions may be moved without notice:

- (a) To appoint a person to preside at a meeting
- (b) To correct the minutes
- (c) To change the order of business
- (d) To remit a matter to a committee
- (e) To appoint a committee arising from an item mentioned in the summons
- (f) To adopt recommendations of committees or officers and to take action resulting from such adoption
- (g) That leave be given to withdraw a motion
- (h) To suspend rules of procedure
- (i) To amend a motion
- (j) To defer consideration of a matter to a later date
- (k) To adjourn the meeting
- (l) To proceed to next business
- (m) That the question be now put
- (n) That a member be not further heard
- (o) To exclude the public
- (p) To give the consent of the Council, where consent is required by these standing orders

## **FCR 15 - Consideration of Committee Recommendations**

- 15.1 A recommendation from any Committee shall constitute a motion to be proposed by the Chair/Chairman, and shall not require to be seconded. If the Chair/Chairman is not present, the ViceChair/-Chairman 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.

## **FCR 16 - Rules of debate**

### **Addressing the Mayor**

- 16.1 A Member when speaking shall stand and address the Mayor. If more than one Member stands the Mayor shall indicate the order of speakers. Subject to Standing Orders on Points of Order and Personal Explanation, all other members shall remain seated whilst a Member is speaking.
- 16.2 Only one member shall speak at any one time, and members shall stand whilst speaking. All other members shall remain seated, unless rising to make a point of order/personal explanation.
- 16.3 If a member stands to raise a point of order or point of personal explanation, the Member shall be heard immediately, and any member then speaking shall give way.

### **Points of Order**

- 16.4 A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Standing Orders or the law. The Member must identify the Standing Order or rule of law being breached before the Member sets out their reasoning in which he/she considers it has been broken. The ruling of the Mayor on a point of order will be final.

### **Personal Explanation**

- 16.5 A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of the earlier speech by the member (made at the meeting), which may appear to have been misunderstood in the present debate. The member raising the point shall specify what the Member 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.

### **Motion to be put before debate**

- 16.6 There shall be no debate unless a motion has been proposed and (except where specifically stated) seconded. In the event an amendment is proposed, the original motion must be moved first and seconded and only then can proposer of an amendment indicate to the Mayor of his/her intention to propose an amendment.
- 16.7 Once a motion as been put, the Mayor will invite Members 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 of a debate where there are no proposed amendments**

- 16.8 The motion shall then be opened for debate with the Mayor requesting those wishing to speak to indicate their wish to do so by raising their hand.
- 16.9 Members 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 where amendments are proposed**

- 16.10 In the event an amendment or amendments on a motion are moved by a proposer and seconder, provided the proposed amendments are in order, the mover of the original motion will be asked if they wish to accept the proposed amendments.
- 16.11 If such proposed amendments are accepted in full or in part by the mover of the original motion, there shall be no debate on the proposed amendments and the original motion shall be amended accordingly incorporating the accepted amendments.
- 16.12 In the event the mover of the original motion does not accept the proposed amendments, such amendments will be debated in accordance with Standing Orders.

### **Process on debate & length of speeches**

- 16.13 The order, content and length of speeches is as follows:
- (a) speeches must be directed to the motion/ amendment under discussion or to a personal explanation or point of order;
  - (b) Members and officers at a meeting shall be addressed or referred to by their respective titles;
  - (c) the order and times for speeches on motions will be as follows:
    - (i) the proposer of the motion will have 7 minutes to set out their motion;
    - (ii) the seconder shall have 5 minutes to second the motion;
    - (iii) all other Members wishing to speak on the motion will have 3 minutes,
    - (iv) the Chair/Chairman 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;

- (d) once a motion has been put, if a member wishes to propose an amendment for which notice has been given, that amendment must be put at the earliest opportunity;
- (e) 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 ruled in order to enable it to proceed to a debate. If it is ruled in order, amendment will be debated before any debate on the original motion in accordance with the same rules of debate as for a motion. If it is ruled out of order, it will fall and the original motion will be allowed to proceed to debate;
- (f) the order and times for speeches on amendments ruled in order, and not agreed by the original motion proposer will be as follows:
  - (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 will have 5 minutes to speak to their amendment;
  - (iii) the seconder of the amendment shall have 3 minutes to speak to the amendment;
  - (iv) all other Members wishing to speak on the amendment will have 3 minutes;
  - (v) the Chair/Chairman has a right to reply to the amendment and shall have 5 minutes to respond;
  - (vi) the proposer of the original motion shall have the right to respond to the amendment and will have 3 minutes to do so;
- (g) the process of debate on a motion or an amendment, is as follows:
  - (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 before the Chair/Chairman of the relevant committee)
  - (ii) in the event an amendment is proposed, the proposer of the motion must first move the motion which must be seconded by the seconder, only then can the proposer of an amendment put forward their amendment;
  - (iii) the seconder of an amendment may speak immediately after the proposer of the amendment unless they reserve their right to speak later in the debate (as in the case of a motion , they must

exercise that right before the reply from the relevant committee Chair/Chairman);

- (iv) all other Members responding with speeches to the motion or on amendment/s shall be called in turn to speak;
- (v) the mover of the amendment has no right of reply to the debate on their proposed amendment;
- (vi) neither the Chair/Chairman 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.

16.14 If an amendment is carried, 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 and may if not already exercised their right to speak on the motion, is then able to do so as the proposer of the motion.

#### **General matters on a motion or amendment**

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

- (a) to speak once on any new amendments;
- (b) to move a further amendment if a previous amendment is not carried or the motion has been amended since they last spoke;
- (c) if their speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- (d) in exercise of a right to reply as a Chair/Chairman, or as the proposer;
- (e) on a Point of Order;
- (f) by way of Personal Explanation.

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

- (a) to remit a matter to committee for consideration/ reconsideration;
- (b) to defer consideration of a matter to a later date;
- (c) to adjourn the meeting;
- (d) to proceed to next business;

- (e) that the matter be now put;
- (f) that a member be not further heard;
- (g) to exclude the public;
- (h) to give the consent of the Council, where consent is required by these standing orders.

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

16.18 Members 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.

16.19 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:

- (a) the Chair/Chairman of the relevant committee to reply to the debate (max 5 minutes on motion / max 3 minutes on amendment);

followed by (if it is not a recommendation from a committee),

- (b) the proposer of the motion, who shall have a final right of reply to the debate (max 5 minutes on motion or 3 minutes on amendment), before the motion is put to the vote.

### **FCR 17 -Process for putting 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 In accordance with Standing Orders, an amendment to a motion may also 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:

- (a) to refer the matter back to committee;
- (b) to leave out words;
- (c) to leave out words and insert or add others;

(d) to insert or add words.

17.5 The Mayor shall not accept an amendment/s if:

- (a) it is outside the scope of the original motion;
- (b) it is outside scope the meeting;
- (c) it is outside the Council's powers;
- (d) it would contravene Standing Orders on challenging a previous decision) and/or;
- (e) has the same effect as voting against the motion;
- (f) appears to be frivolous or vexatious;
- (g) where an amendment has already been considered or is of a similar nature to one which has already been considered;
- (h) where several amendments having already been considered, it is considered further amendments would have the effect of unreasonably prolonging debate on a matter.

#### **FCR 18 - Closure motions**

- 18.1 At the conclusion of the speech of another member any member (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 15.12 (a) to (f) above (a "closure motion"). When moving a closure motion the member 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).
- 18.2 On a motion to remit a matter to a committee, the Mayor shall give the chair/chairman 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.
- 18.3 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 cannot reasonably be discussed at the meeting in question, the motion to defer shall be put to the vote without debate.
- 18.4 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.

- 18.5 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.



## **Section 1(B) Relating to the Conduct of Committees, Sub-Committees and Advisory Panels**

### **CPR 1 - Questions from the public**

- 1.1 At meetings of the Council's policy committees and Audit, Crime & Disorder and Scrutiny Committee up to 30 minutes will be set aside for written or oral questions from any member of the public who lives, works, attends an educational establishment or owns or leases land in the Borough, on matters within the Terms of Reference of the body in question, but which may not include matters listed on a Committee Agenda.
- 1.2 The question or topic may not relate to a specific planning application or decision under the Planning Acts, a specific application for a licence or permit of any kind, 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/Chairman are vexatious or frivolous will not be accepted.
- 1.3 All questions whether written or oral must consist of one question only, they cannot consist of multi parts or of a statement.

### **Written Questions**

- 1.4 A person who wishes to ask a written question must submit their question in writing (either in hard copy or by email) to the Council's Chief Legal Officer. The written question must arrive by noon on the tenth working day before the day of the meeting.
- 1.5 The member of the public submitting a written question must set out:
  - (a) the wording of the question they wish to ask;
  - (b) an address, email address or telephone number at which they can be contacted before and after the meeting;
  - (c) whether they live, work, attend an educational establishment or own or lease land in the Borough and if so, details.
- 1.6 Following receipt of a written question, the Chief Legal Officer 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.

### **Process at Meeting**

- 1.7 Questions must be addressed to the Chair/Chairman of the relevant meeting.
- 1.8 The Chair/Chairman may decline to answer a question or 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. At the

Meeting, and as part of the initial response to a question, the Chair/Chairman may invite other Members of the relevant body to contribute or simply refer to a publication where the answer or further details may be found.

- 1.9 At the Meeting the Chair/Chairman 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/Chairman may decline to answer a supplementary question or invite other Members of the relevant body to contribute to a response.
- 1.10 Written questions shall be taken first and in the order they were received followed by any oral questions, until 30 minutes have elapsed since the first question was called.
- 1.11 If a member of the public asks or wishes to ask more than one question, their second question (written or oral) shall be taken after all other individuals who wish to ask a question have been given the opportunity to do so.

### **CPR 2 - Public speaking at the Planning Committee**

- 2.1 The arrangements for public speaking at Planning Committee are set out set out in the Planning Code of Practice at Part 5 of the Constituion.

### **CPR 3 - Petitions**

- 3.1 A petition is a written or electronic communication which is signed by or sent to the Council on behalf of at least 20 people. The Council's response to a petition will depend on what the petition asks for and how many people have signed it but may include presenting the petition at a committee meeting.
- 3.2 The presentation of petitions at policy committees shall take place immediately after the submission of questions by members of the public in the order in which notice of them is received by the Chief Legal Officer.
- 3.3 The petition organiser shall have the opportunity to present the petition to a meeting of the appropriate policy committee provided that they have given notice of their intention to do so to the Chief Legal Officer by noon at least ten working days before the meeting at which the petition is to be presented.
- 3.4 The presentation of a petition shall be limited to not more than five minutes, and shall be confined to reading out, or summarising, the subject matter of the petition, indicating the number and residency of the signatories, and making such further supporting remarks relevant to the petition.
- 3.5 Regarding petitions presented to a policy committee (of which proper notice has been given):-
  - (a) a written response may be available in advance of the meeting

- (b) the Chair/Chairman of the Committee may, if he considers it convenient and conducive to the despatch of business, allow the subject matter to be dealt with at the meeting at which it is presented; or otherwise
- (c) the subject matter shall stand referred, without discussion, either to the next ordinary meeting of the Committee or other appropriate body.

#### **CPR 4 - Committee, Sub-Committee and Advisory Panel timetables and agendas**

- 4.1 The Chief Legal Officer will prepare a timetable of meetings of the Council, any committees, sub-committees, advisory panels and joint committees (as appropriate) each year and submit it to the Council for approval. Meetings shall be organised in accordance with the approved timetable. The Chief Legal Officer may re-arrange the date for, add a further date or cancel, a meeting if they and the Chair/Chairman of the body in question are both satisfied that there is good reason for doing so or insufficient business to justify the meeting being held, or for other reasons which in their view are sufficient. When a meeting is cancelled or the date is changed, the Chief Legal Officer shall notify Members accordingly. When possible, notice of the cancellation or change shall also be posted on the Council's website.
- 4.2 The Chief Legal Officer must dispatch an Agenda at least five working days before every meeting of any committee, sub-committee, advisory panel and joint committee or as soon as the meeting is called whichever is later.
- 4.3 The agenda must include:
  - (a) all items of business referred to the committee, sub-committee, advisory panel or joint committee;
  - (b) any reports submitted to the committee or sub-committee by the Chief Executive, Chief Operating Officer/Director; Heads of Service;
  - (c) any item of business which the Chair/Chairman requires to be included.
- 4.4 Any Member who wishes to request that a particular item of business be included must give notice in writing to the Chief Legal Officer by noon on the tenth working day before the date of the meeting.
- 4.5 A report shall not be submitted to a Policy Committee, Sub-Committee or Advisory Panel if, in the opinion of the Chief Legal Officer it does not comply with legal or policy requirements.
- 4.6 Subject to any requirements of the Chair/Chairman, the Chief Legal Officer must arrange the order of business in a manner in which they consider will ensure the effective despatch of business.
- 4.7 If it is impossible, owing to exceptional circumstances, to include a report on a particular item on the Agenda before it is despatched, or if a report is

proposed to be put to the meeting as a matter of urgency in special circumstances under Section 100 B of the Local Government Act 1972, the Chief Legal Officer shall circulate it to every person entitled to receive the papers of the committee or sub-committee as soon as practicable after they have been prepared.

- 4.8 The Audit, Crime & Disorder and Scrutiny Committee has the right, in the exceptional circumstances mentioned in Section 4 , Overview and Scrutiny Procedure Rules, to call-in any decision of a policy committee other than a recommendation to the Council in accordance with the Protocol on Use of Call-in Procedure set out in Part 5 of the Constitution.

#### **CPR 5 - Special meetings of Committees, Sub-Committees and Advisory Panels**

- 5.1 The Chair/Chairman of any committee (or in his absence the Vice Chair/Chairman) or the Chair/Chairman of any sub-committee, advisory panel or joint committee may call a special meeting of that committee at any time. The Chief Executive, Chief Finance Officer and Monitoring Officer may also call a special meeting to consider business at any time.
- 5.2 A special meeting may also be called if a joint written request signed by at least three, or one quarter of the total number, of the voting members of a policy committee, sub-committee or advisory panel, whichever is the greater, has been made to the Chair/Chairman of a policy committee (or in his absence, Vice Chair/Chairman) or Chair/Chairman of a sub-committee or advisory panel (the request should be sent to the Chief Legal Officer).
- 5.3 The Chair/Chairman may not refuse to hold a special meeting in such circumstances and a special meeting must be called within seven working days of the presentation of such a properly constituted request.
- 5.4 The request to call a special meeting must state the business to be transacted and no other business. The Chief Legal Officer must fix a date for the meeting which so far as practicable is appropriate for the proper despatch of that business upon which the Standing Order for circulation of papers will then apply.

#### **CPR 6 - Rights and duties to attend meetings**

- 6.1 With the exception of Licensing Sub-Committees and Standards Hearing Sub-Committee, any member of the Council may attend the meetings of all committees, sub-committees and advisory panels as an observer and may

Speak if permission is given by the Chair/Chairman. Such permission to speak will not normally be refused by the Chair/Chairman.

- 6.2 At Planning Committee, Ward Councillors who are not members of the Planning Committee are able to attend the meeting and address the meeting on matters which affect their Ward in accordance with the Planning Code of Practice included in Part 5 of the Constitution.
- 6.3 A co-opted member of a committee, sub-committee or advisory panel has the right to attend all meetings of that body but may speak only on matters which the Chair/Chairman considers reasonably and fairly relate to the purposes for which they were appointed to the body. Co-opted members may not speak on the appointment of a Chair/Chairman or Vice-Chair/Chairman or be elected to those offices.
- 6.4 In the case of the Planning Committee, Members of the Committee who have entered the meeting late for a particular item, have no right to speak or vote on that item.
- 6.5 The Audit, Crime & Disorder and Scrutiny Committee may require any Member of a policy committee, the Chief Executive, Chief Operating Officer/ Director and/or any Head of Service to attend before it to explain in relation to matters within its remit:
- (a) any particular decision or series of decisions;
  - (b) the extent to which the actions taken implement Council policy;
  - (c) their performance; and
- it is the duty of those persons to attend if so required.
- 6.6 Notwithstanding anything said above, a member whose notice of motion has been referred by the Council to any policy committee, sub-committee or advisory panel shall be given notice of the meeting at which it is proposed to consider the motion.

## **CPR 7 - Quorum**

- 7.1 The quorum of a policy committee, sub-committee, Audit, Crime & Disorder and Scrutiny Committee or advisory panel shall be at least one quarter of the total number of Members of the relevant body rounded up to the next whole number, but shall never be less than three except where authorised by statute or where ordered by the Council.
- 7.2 If there is no quorum at the time the meeting is summoned to start, the Chair/Chairman will allow a delay of fifteen minutes to see if a quorum

assembles. If there is still no quorum at the end of that period, the meeting must be reconvened at another time.

- 7.3 If during any meeting of a committee, sub-committee or advisory panel the Chair/Chairman ascertains that a quorum is not present, the meeting shall stand adjourned for fifteen minutes. If after fifteen minutes there is still no quorum present, the meeting shall end.
- 7.4 The Chair/Chairman may fix a date and time to deal with any business which cannot be dealt with because the meeting is not quorate in accordance with Standing Orders. If they do not do so, the business shall be dealt with at the next timetabled meeting of the committee, sub-committee or advisory panel.

### **CPR 8 - Absence of Chair/Chairman**

- 8.1 If the Chair/Chairman is absent from a meeting, the Vice Chair/Chairman shall Chair the meeting. In the absence of a Vice Chair/Chairman, or if no Vice Chair/Chairman has been appointed by the Council, the Committee must elect a person to Chair the meeting.
- 8.2 A Chair/Chairman or Vice Chair/Chairman must be drawn from the membership of the committee or sub-committee.
- 8.3 If the Chair/Chairman or Vice Chair/Chairman enters the meeting after another member has been appointed to preside, that Member must immediately at the conclusion of the matter under discussion offer the chair to the Chair/Chairman or Vice Chair/Chairman.
- 8.4 If the Chair/Chairman resigns or is unable to act as such, the Vice Chair/Chairman shall become the Chair/Chairman until a Chair/Chairman (and if necessary a Vice Chair/Chairman) is elected for the remainder of the municipal year by the Council. If the Vice Chair/Chairman resigns or becomes unable to act as such, then the Committee shall elect a new Vice-Chair/Chairman until the end of the municipal year or to the next Council meeting whichever is the earlier.
- 8.5 Any power or duty of the Chair/Chairman in relation to the conduct of a meeting may be exercised by the person chairing the meeting and any reference to the Chair/Chairman shall be taken to include such persons except that an officer shall not be entitled to a vote of any kind.

### **CPR 9 - Guillotine**

- 9.1 At 22.00 hours (or two and a half hours after a meeting has commenced or as may be appropriate) the Chair/Chairman of meeting shall review the business to be transacted and shall order the items so as to dispose of all matters requiring a decision by 22.30 hours. In respect of any matters still outstanding

at 22.30 hours, the committee shall be asked to decide either that these be agreed as presented without debate/discussion or that they be held over until the next meeting.

- 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.

### **CPR 10 - Minutes**

- 10.1 The Minutes of any ordinary meeting of a committee, sub-committee or advisory panel shall be written and presented to the next ordinary meeting of the relevant body and not to any special meeting which may be called before the next ordinary meeting of that committee, sub-committee or advisory panel.
- 10.2 The Chair/Chairman shall put that the Minutes of the meeting held on the day in question be signed as a true record.
- 10.3 There shall be no discussion on the Minutes, except by way of a motion relating to their accuracy. If no question of accuracy is raised, or as soon as any question is settled, the Chair/Chairman shall initial each page of the minutes in addition to dating and signing the final page of the said document.
- 10.4 If the committee, sub-committee or advisory panel is not scheduled to meet again, or is not likely to meet in the foreseeable future, the Chair/Chairman of the committee or sub-committee (or in his absence any Member of it) may sign the Minutes using the above procedure when the proceedings of that body are reported to (or at a convenient meeting of) the Council or the parent committee, subject to the resolution of all questions as to their accuracy which may then be raised by Members who were present at the meeting.
- 10.5 The minutes will reflect those leaving the room or not present when matters are being voted on.

### **CPR 11 - Scheme of delegation**

- 11.1 A committee, sub-committee or advisory panel shall act in accordance with its terms of reference and delegated powers as agreed by the Council and set out in this Constitution.

### **CPR 12 - Rules of debate**

- 12.1 Meetings of policy committees, sub-committees and advisory panels are to be conducted with as little procedural formality as is consistent with the need for

good order and the effective conduct of business. However, the following guidelines should be taken into account:

### **Proposals and Amendments**

- 12.2 The officers' recommendations in a report shall constitute proposals which do not require to be moved and seconded and shall be the basis for debate.
- 12.3 During a debate, a Member should make it clear if they are suggesting something which they wish to be, or form part of, the decision of the policy committee, sub-committee or advisory panel. It is best practice for any such proposals to be seconded and the Chair/Chairman may require them to be submitted in writing so that they may be read to the meeting before being discussed. For the sake of clear and transparent decision making, the Chair/Chairman should explicitly ask the Committee to agree to any such proposal and if any Member of the Committee disagrees, a vote by show of hands should be taken prior to any further debate.
- 12.4 Members must not speak about anything except the subject under discussion, a point of order, personal explanation or declaration of interest.
- 12.5 Members have no right to speak as often as they wish on a particular agenda item and the Chair/Chairman may rule that a Member may no longer be heard. The Chair/Chairman's ruling on this shall be final and not open to comment.
- 12.6 It is the role of the Chair/Chairman to summarise what the Committee has decided, and if necessary, to take a final vote by show of hands, before moving onto the next item of business.

### **Motions referred from Council**

- 12.7 The proposer of a motion referred to the Committee by the Council shall have the right to open the debate on the matter in question but may not vote on the matter unless they are a member of that policy committee, sub-committee or advisory panel. For the avoidance of doubt if they are substituting for a member, they are not able to vote on the motion they brought to Council and referred to the Committee. When there is no-one else wishing to speak, or the Chair/Chairman determines that there has been sufficient discussion, the Chair/Chairman shall call on the proposer of the motion referred from Council to reply to the debate (max 3 minutes), before the matter is put to the vote.
- 12.8 A member exercising a right of reply shall confine themselves to answering previous speakers and shall not introduce new matters or material; the Chair/Chairman's ruling on this shall be final and not open to comment.
- 12.9 In accordance with Council's Standing Orders, the policy committee, sub-committee or advisory panel in question will normally make a final decision on



the motion, if they have delegated authority to do so, or make a report and recommendation to Council if they do not have such authority.

### **Proposals which may be moved during debate**

12.10 When a matter is under debate no other proposal shall be moved except to:

- (a) amend the proposal under discussion;
- (b) move that a Member not be further heard;
- (c) move a motion under Section 100A (4) of the 1972 Act to exclude the press and public;
- (d) move a closure motion.

### **CPR 13 - Closure Motions**

13.1 At the conclusion of the speech of another member any member may move one of the following closure motions:

- (a) to refer a recommendation of a sub-committee or advisory panel back to that body for reconsideration;
- (b) to defer consideration of the matter until the next ordinary meeting of the Committee;
- (c) to adjourn the meeting;
- (d) to put the question;
- (e) to proceed to the next business.

13.2 When moving a closure motion the member must state which closure motion they are moving and, once the Chair/Chairman has ruled that the motion is in order, will be given the opportunity to explain why it is being moved (max 5 minutes).

13.3 On a proposal to refer a recommendation back to a sub-committee or advisory panel, the Chair/Chairman shall give the chair/chairman of the relevant body, if they are present, the right to reply to the motion (max 5 minutes), after which the proposal shall be put to the vote without debate or comment.

13.4 On a proposal to defer consideration of a matter to a later date or to adjourn the meeting, if the Chair/Chairman considers that the matter requires further discussion but cannot reasonably be discussed at the meeting in question, the proposal to defer shall be put to the vote without debate or comment.

13.5 On a proposal to proceed to next business, unless the Chair/Chairman thinks that the committee, sub-committee or advisory panel needs to reach a decision at that meeting on the matter then under consideration, the proposal

to proceed to next business shall be put to the vote, without comment or debate.

- 13.6 On a proposal that the question be now put, unless the Chair/Chairman thinks that there has been insufficient debate of the matter, the Chair/Chairman shall put to the vote the proposal that the question be now put without comment or debate.
- 13.7 Unless a proposal to exclude the press and public is on the agenda, the Chair/Chairman shall ascertain the grounds for the motion and shall ascertain from the appropriate officers present whether the public can lawfully be excluded. If so, they shall allow the proposer of the matter under discussion a right of reply on the proposal to exclude the press and public and shall then put the proposal to the vote. If it is passed the Chair/Chairman may at their discretion either immediately require the press and public to leave the room in which the debate is being held or adjourn the debate until some convenient time later in the meeting when the public shall have been excluded.

#### **Chair/Chairman's discretion to put the question**

- 13.8 The Chair/Chairman may curtail the debate at any time if they consider that the Committee, Sub-Committee or Advisory Panel has sufficiently discussed the matter. They shall thereupon give the movers of the motion and amendment (if any) their rights of reply and put that motion or amendment to the vote.

#### **CPR 14 - Points of Order/Personal Explanation**

- 14.1 If a member wishes to raise a point of order or point of personal explanation, the Member should normally stand and shall be heard immediately, and any member then speaking shall give way.
- 14.2 A point of order relates only to an alleged breach of a rule of procedure or statutory provision. The member raising the point of order shall specify which rule(s) of procedure or statutory provision is involved and how the Member thinks it has been broken. The ruling of the Chair/ Chairman on any point of order is final.
- 14.3 A point of personal explanation is an opportunity to correct an apparent misunderstanding of comments made by the member earlier in the debate. The member raising the point shall specify what the Member said earlier and

how they feel this has been misunderstood. The ruling of the Chair/Chairman on any point of order is final.

### **CPR 15 - Respect for the Chair/Chairman**

- 15.1 The Chair/Chairman may interrupt the debate to restore order by using the command “order” or by striking the gavel. The Committee must then be silent until the Chair/Chairman calls upon a Member to speak.
- 15.2 All Members must address the Chair/Chairman when speaking.

### **CPR 16 - Composition of Committee, Sub-Committees and Advisory Panels (including substitution of Members)**

- 16.1 Every member of the Council shall be eligible for appointment to a sub-committee with the exception of the Licensing (Hearings) Sub Committee, on which only Members of the Licensing and Policy Committee are permitted to sit.
- 16.2 A Committee may decide to co-opt additional members onto the Committee, whether members of the Council or not. Co-opted members of a Committee shall not be counted in the quorum for the Committee and shall not be entitled to vote on any matter before the Committee. Co-opted members may be appointed to assist with a specific area of business or generally to assist the Committee in its work.
- 16.3 Subject to section 102 (5) of the 1972 Act (councillor leaving office ceases to be a member of a committee) and Standing Orders on substitutions, every person appointed as a voting member of such a committee or sub-committee and every person appointed to exercise other functions in relation to a sub-committee shall continue until the appointment is terminated by the Council or they resign.
- 16.4 A Member of a committee, joint committee, sub-committee or advisory panel may for the whole of a specified meeting designate as his/her substitute another Member. The substitute may attend the meeting on behalf of, but not in addition to, the nominating Member and shall be entitled to speak and vote. The nominating Member, or in their absence, the Leader/Chairman of his/her Group Deputy Leader/Chairman of his/her Group, shall inform the Chief Legal

Officer or his representative in writing or by e-mail, prior to the meeting in question, that his/her substitute will be attending

- 16.5 Provisions for the appointment of substitutes do not apply to meetings of Licensing Sub-Committees.

### **CPR 17 - Motions affecting staff**

- 17.1 If any question arises at a meeting of a Committee, Sub-Committee or Advisory Panel as to the appointment, promotion, dismissal, salary or conditions of service of any person employed by the Council, or their conduct, the matter must not be discussed until it has been decided whether or not to exclude the press and public under Section 100 A (4) of the 1972 Act.

### **CPR 18 - Good order in meetings**

#### **Disorderly conduct by Members**

- 18.1 If any Member:

- (a) persistently disregards the ruling of the Chair/Chairman; or
- (b) behaves irregularly improperly or offensively; or
- (c) deliberately disregards established procedure; or
- (d) deliberately obstructs the business of the meeting;

then the Chair/Chairman may name the Member and require them both to apologise and to correct their behaviour immediately, or to do either.

- 18.2 If a Member named by the Chair/Chairman under the paragraph above continues their misconduct, the Chair/Chairman may do any or all of the following at their discretion at any time during the meeting:

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

- 18.3 A Member may not impute improper motives, or use any offensive expression, to any other Member. The Chair/Chairman shall be the sole judge at the

meeting of when this rule has been broken. If a Member ignores or rejects his ruling he shall be dealt with under the two preceding paragraphs.

### **Disturbance by members of the public**

- 18.4 If a Member of the public interrupts the proceedings at any meeting the Chair/Chairman shall issue them a warning. If the member of the public continues the interruption the Chair/Chairman shall order the member of the public's removal from the meeting room
- 18.5 In the event of a public disturbance, the Chair/Chairman may without question adjourn the meeting for such period as s/he considers expedient.

### **General**

- 18.6 The decision of the Chair/Chairman as to acceptable conduct whether by members or the public shall be final.

### **CPR 19 - Mobile phones, filming & recording of Meetings**

- 19.1 Audible alerts on mobile phones must be turned off.
- 19.2 Any recording or filming shall be undertaken in accordance with the Protocol included in Part 5 of the Constitution. The purpose of the Protocol is to provide guidance, particularly, for members of the public as well as the media on the taking of photographs and / or the audio / visual recording of any Council meeting held in public.
- 19.3 The Chair/Chairman of the meeting has absolute discretion to terminate or suspend any of these activities if, in his/her opinion, continuing to do so would prejudice or unduly disrupt proceedings at the meeting.
- 19.4 Whilst no prior permission is required, any person wishing to film, photograph or record such a meeting, is requested to advise the Chair/Chairman of the meeting of their intention to do so.
- 19.5 The Chair/Chairman of the meeting shall advise Members and the public that the meeting is being recorded. In order to maintain orderly conduct or prevent misbehavior or disruption of the meeting, the Chair/Chairman of the meeting may exclude any individual who is recording the meeting.
- 19.6 The protocol also refers to the use of "Social Media" at meetings and makes clear that there are no restrictions placed on anyone at the meeting using Twitter, blogs, Facebook or similar "social media" provided that the

Chair/Chairman does not consider their actions are disrupting the proceedings of the meeting leading to disorderly conduct and/or misbehaviour.

## **CPR 20 - Voting**

- 20.1 Upon summation of a decision by the Chair/Chairman, in accordance with Standing Orders, a question may be decided by “unanimous consent” were the Chair/Chairman asks if a matter is agreed and no member objects. In the event of any member objecting, a formal vote shall be taken.
- 20.2 Except as otherwise provided, voting shall be on a show of hands of those present.
- 20.3 At a meeting of a decision making body any four Members may request that the vote be recorded to show who voted for and against the proposal and who abstained. For a recorded vote, an appropriate officer shall call the name of each Member present and that Member shall speak to indicate whether he votes for or against the motion or abstains, without further comment.
- 20.4 Unless a recorded vote has been taken, immediately after any vote has been taken, following a request to that effect from any member, their vote for or against the motion, or the fact that they did not vote, shall be recorded in the minutes.
- 20.5 The Chair/Chairman must ascertain the numbers voting for or against any motion or amendment, or for any candidate. They or an officer present shall inform the meeting of the numbers. Once the Chair/Chairman has satisfied themselves as to the totals their declaration of the result cannot be questioned.

## **Second or casting votes**

- 20.6 If the votes are tied on any issue, the Chair/Chairman may use a second or casting vote as follows:
  - (a) If the Chair/Chairman voted at the same time as the other Members (i.e. used their first vote) they may use his second vote;
  - (b) if the Chair/Chairman did not vote at the same time as the other Members they may use their casting vote;
  - (c) the Chair/Chairman shall not delay their first vote in order to ascertain the voting figures and then use it to produce an equality of votes in order to use their second vote.
  - (d) the Chair/Chairman may decline, without explanation, to use either their second or casting vote;

If the votes remain tied at the end of the voting process the effect is that no decision has been taken on the matter in question and the motion being voted upon is lost.

### **CPR 21 - Record of attendance**

21.1 The Democratic Services Officer is responsible for recording attendance at meetings.

### **CPR 22 - Implementation of Committee Decisions**

- 22.1 Subject to the right of a Member to propose any motion to Council and for the Council to deal with that motion, all matters specified in the Terms of Reference shall usually be referred for consideration to Committees, Sub-Committees or Advisory Panels under whose names such matters appear. Committees shall be authorised to take such action as they think fit in relation to any matters falling within their Terms of Reference, subject to their reporting to Council with their recommendations thereon where matters of principle or policy are involved.
- 22.2 A decision of a policy committee or sub-committee which is vulnerable to call-in under Overview and Scrutiny Procedure Rules in this Part of this Constitution shall not be implemented until the fifth working day after it has been made.

## **SECTION 2 - Access to Information Procedure Rules**

### **1 Scope**

- 1.1 These rules apply to all meetings of the Council, the Scrutiny Committee, policy and other Committees, sub-Committees and the Standards Committee (together called meetings).

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

- 2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law (such as the Freedom of Information Act).

### **3 Rights to attend meetings**

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

### **4 Notices of meeting**

- 4.1 The Council will give at least five clear days' notice of any meeting by posting details of the meeting at the Town Hall, Epsom.

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

- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the Town Hall at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Chief Executive will make each such report available to the public as soon as the report is completed and sent to Councillors.

### **6 Supply of copies**

- 6.1 The Council will supply copies of any:-
- (a) agenda and reports which are open to public inspection;
  - (b) further statements or particulars necessary to indicate the nature of the items in the agenda;
- and
- (c) any other documents supplied to Councillors in connection with an item, if the Chief Executive thinks fit;
- to any person on payment of a charge for postage and any other costs.

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

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



- (a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  - (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - (c) the agenda for the meeting;
- and
- (d) reports relating to items when the meeting was open to the public.

## **8 Background papers**

### **List of Background Papers**

- 8.1 The Chief Executive will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:-
- (a) disclose any facts or matters on which the report or an important part of the report is based;
- and
- (b) which have been relied on to a material extent in preparing the report.
- 8.2 but does not include published works or those which disclose exempt or confidential information (as defined in Rule 9.3 and 9.4).

### **Public Inspection of Background Papers**

- 8.3 The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **9 Exclusion of access by the public to meetings**

### **Confidential Information - Requirement to Exclude Public**

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

### **Exempt Information - Discretion to Exclude Public**

- 9.2 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.
- 9.3 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998

establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### Meaning of Confidential Information

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

### Meaning of Exempt Information

- 9.5 Exempt information means information falling within the seven categories below provided that in all the circumstances the public interest in withholding the information outweighs the public interest in disclosing the information.

<b>EXTRACTS FROM THE LOCAL GOVERNMENT (ACCESS TO INFORMATION)(VARIATIONS) ORDER 2006</b>	
<b>DESCRIPTIONS OF EXEMPT INFORMATION: ENGLAND</b>	
1.	Information relating to any individual
2.	Information which is likely to reveal the identity of an individual
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information) (N.B. Information within this paragraph is not exempt if it must be registered under: <ul style="list-style-type: none"> <li>a) the Companies Act 1985</li> <li>b) the Friendly Societies Act 1974</li> <li>c) the Friendly Societies Act 1972</li> <li>d) the Industrial and Provident Societies Acts 1965 to 1978</li> <li>e) the Building Societies Act 1986</li> <li>f) the Charities Act 1993)</li> </ul>
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5.	Information in respect of which a claim to legal privilege could be maintained in legal proceedings.
6.	Information which reveals that the authority proposes: <ul style="list-style-type: none"> <li>a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>b) to make an order or direction under any enactment.</li> </ul>

**EXTRACTS FROM THE LOCAL GOVERNMENT (ACCESS TO  
INFORMATION)(VARIATIONS) ORDER 2006**

**DESCRIPTIONS OF EXEMPT INFORMATION: ENGLAND**

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

- 9.6 Information falling within any of paragraphs 1 - 7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning Act General Regulations 1992.

### **The Standards Committee**

- 9.7 When the Standards Committee is considering a matter of Member conduct under Section 60 or 64 of the Local Government Act 2000, the following paragraphs are to be treated as added to the list of information which can be treated as exempt:

7A	Information which is subject to any obligation of confidentiality
7B	Information which relates in any way to matters concerning national security
7C	The deliberations of a Standards Committee or a Sub-Committee of Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any findings on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

### **10 Exclusion of access by the public to reports**

- 10.1 If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 9, the meeting is likely not to be open to the public. Such reports will be marked 'Not for Publication' together with the category of information likely to be disclosed.

### **11 Summary of public's rights**

- 11.1 A copy of these Rules, constituting a written summary of the public's rights to attend meetings and to inspect and copy documents, will be kept at and available to the public at the Town Hall, Epsom.

## **SECTION 3 - Budget and Policy Framework Procedure Rules**

### **1 The framework for decision-making**

- 1.1 The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a Budget or a Policy Framework is in place, it will be the responsibility of the policy committees to implement it.

### **2 Process for developing the framework**

- 2.1 The process by which the Budget and Policy Framework shall be developed is:
- (a) Each year the Strategy and Resources Committee will recommend to the Council, which will then publish, a programme for establishing the Budget and Policy Framework for the following year. Within this programme, it will identify any strategic policy or resource issues on which it wishes to request studies by the Scrutiny Committee.
  - (b) Within the overall programme, each policy committee may identify any study it wishes to request from the Scrutiny Committee related to policy issues on which it wishes to make recommendations to the Council as part of the Budget and Policy Framework.
  - (c) Policy studies undertaken by the Scrutiny Committee should engage as widely as possible with citizens and stakeholders in the community and use a variety of methods to gauge public views. The results should be presented to the relevant policy committee which will then develop proposals to be submitted to the Council.
  - (d) The Policy and Budget Framework to be presented to Council will be available for public consultation for a period of 4 weeks.
  - (e) In approving the Policy and Budgetary Framework presented to it by the Strategy and Resources Committee, the Council will also specify the extent of virement within the Budget and degree of in-year changes to the Policy Framework which may be undertaken by policy committees, in accordance with paragraphs 3 and 4 of these Rules (virement and in-year adjustments). Any other changes to the Budget and Policy Framework are reserved to the Council.

### **3 Virement**

- 3.1 The Council will decide on virement limits having regard to the nature of its functions, the size of its budget, and the need to maintain a balance between the Budget and Policy Framework and the flexibility needed in-year to deliver services in accordance with Best Value principles.

### **4 In-year changes to policy framework**

- 4.1 The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by policy committees or officers with delegated

authority must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by a policy committee or officer with delegated authority except changes:

- (a) necessary to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;

and

- (c) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

4.2 The Council may make in-year changes to its Budget and Policy Framework other than in the circumstances set out in 4.1 above, but will only do so on the recommendation of a policy committee or in response to a report from the Chief Executive or on a motion after proper notice in accordance with the Council Procedure Rules set out in Part 4 of this Constitution, in all cases after a period of consultation with citizens and stakeholders appropriate to the nature of the changes proposed.

## **SECTION 4 - Overview and Scrutiny Procedure Rules**

### **1 Number of, and arrangements for, Scrutiny Committee(s)**

- 1.1 The Council will have one Scrutiny Committee, the Audit, Crime & Disorder and Scrutiny Committee, which will arrange for the performance of all overview and scrutiny functions on behalf of the Council. It will consist of at least five Councillors.
- 1.2 The Audit, Crime & Disorder and Scrutiny Committee will be responsible for:-
- (a) arranging the performance of overview and scrutiny functions on behalf of the Council;
  - (b) the appointment of such sub-committees or panels as it considers appropriate to fulfil those review and scrutiny functions;
  - (c) ensuring that the Council complies with its duty concerning Best Value, in accordance with the Local Government Act 1999;
  - (d) approving an annual Overview and Scrutiny Work Programme, including the programme of any sub-committees or panels;
  - (e) Monitoring the Council's financial and audit arrangements and considering regular reports from the auditor on the outcome of audits.
  - (f) putting in place a system to ensure that referrals from the Scrutiny Committee to Council and to the policy committees, either by way of report or for reconsideration, are managed efficiently.
  - (g) scrutinising the development and implementation of the Community Strategy.
  - (h) monitoring progress on the Council's Corporate Plan.

### **2 Who may sit on the Audit, Crime & Disorder and Scrutiny Committee?**

- 2.1 All councillors may be members of the Audit, Crime & Disorder and Scrutiny Committee but no councillor may be involved in scrutinising a decision in which he/she has been directly involved.

### **3 Co-optees**

- 3.1 The Scrutiny Committee will seek to co-opt other Councillors to constitute sub-committees, or panels, provided that no councillor may scrutinise a decision in which he/she has been involved.
- 3.2 The Scrutiny Committee shall be entitled to appoint to any sub-committee or panel a co-opted member who is not a councillor or an officer of this Council.

### **4 Meetings of the Audit, Crime & Disorder and Scrutiny Committee**

- 4.1 There shall be at least four ordinary meetings of the Audit, Crime & Disorder and Scrutiny Committee in each year. In addition, Special Meetings may be

called from time to time as and when appropriate. A Special Committee meeting may be called by the Chairman, by any three members of the Committee or by the Scrutiny Officer if he/she considers it necessary or appropriate.

## **5 Quorum**

- 5.1 The quorum for the Audit, Crime & Disorder and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

## **6 Chairmanship of the scrutiny committee**

- 6.1 The Chairman of the Audit, Crime & Disorder and Scrutiny Committee will be appointed by the Council from among the Councillors sitting on the Committee.

## **7 Work programme**

- 7.1 The Audit, Crime & Disorder and Scrutiny Committee will be responsible for setting its own work programmes and in doing so it shall take into account, along with other considerations, the wishes of Members on that Committee who are not members of the largest political group on the Council.

## **8 Agenda items**

- 8.1 Any Members of the Council may give written notice to the Scrutiny Officer that they wish an item to be included on the agenda of the Audit, Crime & Disorder and Scrutiny Committee or submit such an item. If the Scrutiny Officer receives such a notification or item, then he/she will include it on the first available agenda of the Committee for consideration by the Committee. However, where the notification or item is deemed to be a councillor call for action, the Councillor call for Action Protocol shall be implemented
- 8.2 The Audit, Crime & Disorder and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council, and if it considers it appropriate the policy committees, to review particular areas of Council activity. Where it does so, the Audit, Crime & Disorder and Scrutiny Committee shall report its findings and recommendations back to the policy committee and/or the Council. The Council and/or the relevant policy committee shall consider the report of the Audit, Crime & Disorder and Scrutiny Committee at its next available meeting.

## **9 Policy and development overview**

- 9.1 The role of the Audit, Crime & Disorder and Scrutiny Committee in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- 9.2 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Scrutiny Committee may

make proposals to policy committees for such development in so far as it relates to matters within their terms of reference although it is recognised that in most cases policy committees will develop their own policy.

- 9.3 The Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **10 Reports from the Scrutiny Committee**

- 10.1 Once the Scrutiny Committee has completed its deliberations on any matter it will prepare a formal report and submit it via the Scrutiny Officer for consideration by the relevant policy committee (if the proposals are consistent with the existing Budgetary and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- 10.2 If the Scrutiny Committee cannot agree on one single final report to the Council or the relevant policy committee, as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or policy committee with the majority report.
- 10.3 The Council or the relevant policy committee shall consider the report of the Scrutiny Committee at its next available meeting
- 10.4 When the Council meets to consider any referral from the Scrutiny Committee on a matter which would impact on the Budget and Policy Framework, it shall also consider the response of the relevant policy committee to the Scrutiny proposals, and shall if necessary defer consideration of those proposals until after the next meeting of the relevant policy committee.

## **11 Rights of scrutiny committee members to documents**

- 11.1 All Members have the right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution, and members of the Scrutiny Committee, and any sub-committees or panels (including any co-opted members), have all such rights in relation to any of the agreed work programme of the Committee.

## **12 Members and officers giving account**

- 12.1 The Audit, Crime & Disorder and Scrutiny Committee may scrutinise and review decisions made (other than quasi-judicial decisions, e.g. planning and licensing applications) or actions taken in connection with the discharge of any of the Council's functions. As well as reviewing documentation, in



fulfilling the scrutiny role, the Committee may require any member of a policy committee, the Chief Executive and/or any Head of Service to attend before it to explain in relation to matters within its remit:-

- (a) any particular decision or series of decisions;
  - (b) the extent to which the actions taken implement Council policy;
- and
- (c) their performance.

and it is the duty of those persons to attend if so required.

**[Note:** Save in exceptional circumstances, and in agreement with the Chief Executive, no officer below Director or a Division Head shall be required to appear before the Audit, Crime & Disorder and Scrutiny Committee.]

- 12.2 If any Member or Officer is required to attend the Scrutiny Committee under this provision, the Chairman of the Committee will inform the Scrutiny Officer. The Scrutiny Officer shall inform the Member or Officer in writing giving at least five working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 12.3 If, in exceptional circumstances, the Member or Officer is unable to attend on the required date, the Scrutiny Committee shall, in consultation with the Member or Officer, arrange an alternative date for attendance to take place within a maximum of ten working days from the date of the original request.

### **13 Attendance by others**

- 13.1 The Scrutiny Committee may invite people other than those people referred to in paragraph 12 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend, whether in relation to scrutiny of the Council's policies and activities or those of any other agency which affect the social, environmental or economic well-being of the residents of the Borough. Other committees or advisory panels may also, from time to time, scrutinise such other agencies.

### **14 Call-in**

- 14.1 Call-in should only be used in exceptional circumstances. These are where Members of the Scrutiny Committee have evidence which suggests that a policy committee took a decision which was not in accordance with one or more of the principles set out in Article 12 (Decision Making).

14.2 In any event, call-in will not apply to quasi-judicial decisions e.g. development control and licensing.

14.3 The call-in procedure is as follows:-

- (a) When a decision is made by a policy committee or under joint arrangements, the decision shall be published electronically by Democratic Services to a group email address which includes the Scrutiny Officer and members of the Scrutiny Committee normally within two working days of being made and shall also be available on request in hard copy from the Town Hall. When all members of the Council are invited to speak and vote at a meeting of a committee, then the power of call-in does not apply.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the Scrutiny Committee objects to it and calls it in. The Notice shall include the following statement: "The following represents a summary of the decisions taken by the Committee. It is not intended to represent the formal record of the meeting (for which reference should be made to the Minutes) but to facilitate the call-in process".
- (c) During that period, the Scrutiny Officer or Monitoring Officer shall call-in a decision for scrutiny by the Scrutiny Committee if so requested in writing or by e-mail, both of which should include the reasons, by any three Members of the Scrutiny Committee, and shall then notify Members of the decision-making Committee of the call-in. He/she shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chairman of the Committee, and in any case within ten working days of the decision to call-in.
- (d) If, having considered the decision, the Scrutiny Committee is still concerned about it, then it may refer it back to the decision making Committee for reconsideration, setting out in writing the nature of its concerns or refer the matter to the Full Council. Following consideration of the decision by the Scrutiny Committee, the Scrutiny Officer or Monitoring Officer shall notify the members of the decision-making Committee of the outcome. Where the Scrutiny Committee refers the decision back to the decision-making committee, the notification will include details of when the written report will be published.
- (e) If following an objection to the decision:
  - (i) the Scrutiny Committee does not meet in the period set out above or the expiry of the ten working day period; or

- (ii) The Scrutiny Committee does meet but does not refer the matter back to the decision making Committee

the decision shall then take effect.

- (f) If the matter is referred to the Full Council, and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective from the date of the Council Meeting. However, if the Council does object, it may refer any decision to which it objects back to the decision-making committee, together with the Council's views on the decision or may itself determine the matter.

**Note:** Paragraph 14 should be read in conjunction with the Protocol on the Call-in procedure set out in Part 5 (Codes and Protocols) of the Constitution

## **15 Exceptions**

- 15.1 In order to ensure that call-in is not abused, nor causes unreasonable delay, the Council may place certain limitations on its use. It will only seek to impose such limitations after consideration of a report from the Chief Executive.

## **16 Call-In and Urgency**

- 16.1 The call-in procedure set out above shall not apply where the decision being taken by a policy committee is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the Chief Executive or his/her nominee, the decision is an urgent one, and therefore not subject to call-in. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- 16.2 The operation of the provisions relating to call-in and urgency shall be monitored annually by the Chief Executive or his/her nominee, and a report submitted to Council with proposals for review if necessary.

## **17 Procedure at Scrutiny Committee Meetings**

- 17.1 The Scrutiny Committee shall consider the following business:-
  - (a) minutes of the last meeting;
  - (b) declarations of interest;
  - (c) consideration of any matter referred to the Committee for a decision in relation to the calling in of a decision;
  - (d) responses from the Council or a policy committee to reports of the Scrutiny Committee;

and

(e) the business otherwise set out on the agenda for the meeting.

17.2 Where the Scrutiny Committee asks people to attend to give evidence at Committee or Panel meetings they are to be conducted in accordance with the following principles:-

- (a) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
- (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

17.3 Following any investigation or review, the Committee shall prepare a report for submission to the relevant Committee and/or Council as appropriate and shall make its report and findings public.

## SECTION 5 - Financial Regulations

Issued: July 2002; Revised July 2013, February 2019, February 2022

### 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, Crime & Disorder 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, Crime & Disorder 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 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, Crime & Disorder 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, Crime & Disorder 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.

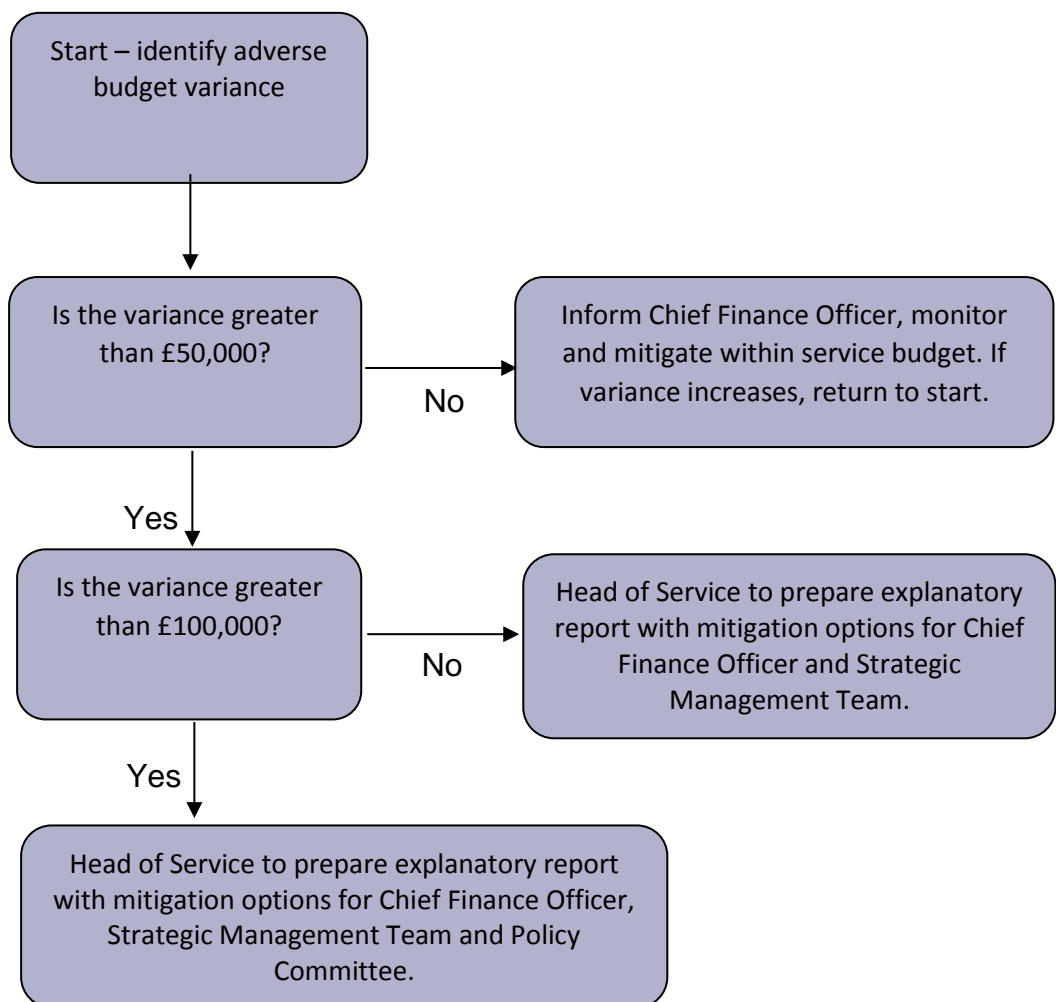
### **Supplementary Estimates**

- 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 6.9), 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 6.25.

### **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 The delegated approvals for virements within the same Committee are --

<b>Value</b>	<b>Level of Responsibility</b>
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 fulfillment 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 - Scheme of Delegation to Officers, paragraph 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.

## **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 Strategy and Resources Committee.
- 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 the Strategy and Resources Committee.
- 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.

## **Capital Member Group and Capital Officer Group**

- 7.4 The Capital Member 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 based on the criteria within the Capital Strategy and recommended to the relevant committee within the capital funding released by the Strategy and Resources Committee, prior to approval from full Council. Each new scheme must have a capital project appraisal form completed and be approved by the Capital Member 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:-

<b>Value</b>	<b>Level of Responsibility</b>
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 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:

<b>Value</b>	<b>Level of Responsibility</b>
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, Crime & Disorder, & 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 effectiveness 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 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 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 General Data Protection Regulation (GDPR) 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, 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, 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 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 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 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, 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.

## **10 Audit**

### **Audit requirements**

- 10.1 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.
- 10.2 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.

- 10.3 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**

- 10.4 The Chief Finance Officer and Head of Corporate Assurance 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).
- 10.5 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.
- 10.6 Strategy and Resources Committee is responsible for approving the procurement of the Council's internal audit service.

### **Powers of Internal Auditors**

- 10.7 To assist in complying with the requirements of the Accounts and Audit Regulations 2015, the Chief Finance Officer or his 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 control.

### **Reporting of Irregularities**

- 10.8 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. The Chief Finance Officer and/or the Head of Corporate Assurance 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**

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

### **Chief Internal Auditor**

10.10 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**

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

- (a) to 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**

10.12 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.

## **11 Control of Assets**

### **Use of Council Property**

11.1 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**

11.2 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.

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

### **Inventories**

11.4 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.

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

### **Stocks and Stores**

11.6 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**

11.7 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 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**

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

### **Disposal of assets**

11.9 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).

## **12 Treasury Management and Trust Funds**

### **Treasury Management Policy**

12.1 The Council shall adopt the key recommendations contained in the CIPFA publication "Treasury Management in the Public Services; Code of Practice".

12.2 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.

12.3 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.

12.4 The Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to Audit, Crime & Disorder 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**

12.5 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**

12.6 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**

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

12.8 The Chief Finance Officer shall report to Audit, Crime & Disorder and Scrutiny Committee annually on the activities of the Treasury Management operation and on the exercise of Treasury Management powers delegated to him/her. The report shall comprise an Annual Report on Treasury Management for presentation by the end of July of the succeeding financial year. A second, interim report on current performance shall be presented in Autumn to the Audit, Crime & Disorder and Scrutiny Committee.

### **Trust Funds**

12.9 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**

12.10 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.

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

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

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

## **SYSTEMS AND PROCEDURES**

### **13 Systems and Procedures - General**

#### **Introduction**

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

#### **Responsibility**

13.2 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.

13.3 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**

13.4 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**

13.5 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**

- 13.6 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 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.

## **14 Banking Arrangements and Cheques**

### **Banking Arrangements**

- 14.1 The Council shall review its banking arrangements at least every 5 years.
- 14.2 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.
- 14.3 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**

- 14.4 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**

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

### **Electronic Payment Systems**

- 14.6 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**

- 14.7 All payments, including BACs payments, in excess of £40,000 shall be countersigned by two authorised officers.
- 14.8 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.

## **15 Income**

### **Income Policy**

- 15.1 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.
- 15.2 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**

- 15.3 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**

- 15.4 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**

- 15.5 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**

- 15.6 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**

- 15.7 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.
- 15.8 The Head of Corporate Assurance 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**

- 15.9 Heads of Service shall ensure that debts due to the Council are referred to the Chief Finance Officer for recovery without delay.
- 15.10 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.
- 15.11 The Chief Finance Officer is authorised to initiate County Court proceedings and sign the appropriate forms for the recovery of sundry debts.
- 15.12 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**

- 15.13 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.
- 15.14 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.
- 15.15 A record of all amounts written off shall be maintained by the Chief Finance Officer and shall be kept up to date.

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

### **Key Controls**

- 16.1 Orders shall only be issued for goods or services if the cost is covered by an approved revenue or capital budget.
- 16.2 All orders must comply with the Council's Standing Orders for Contracts and the guidelines set down in the Council's Procurement Strategy.

- 16.3 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.
- 16.4 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**

- 16.5 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.
- 16.6 Each order shall conform to directions regarding purchasing and the standardisation of supplies and materials.
- 16.7 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.
- 16.8 Telephone, facsimile transfer ("fax") 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.
- 16.9 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**

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

### **Staff Benefits Scheme**

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

### **Related Party Transactions**

- 16.12 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.
- 16.13 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.

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

### **Separation of Duties**

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

### **Method of Payment**

17.2 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**

17.3 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**

17.4 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**

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

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

### **Purchasing Cards**

17.7 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).

## **18 Payments to Employees and Members**

### **Responsibility**

18.1 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**

18.2 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.

18.3 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**

18.4 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**

18.5 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**

18.6 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**

- 18.7 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.
- 18.8 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.
- 18.9 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**

- 18.10 Payment to Members shall be in accordance with the Council's Members' Allowances Scheme.
- 18.11 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.

## **19 Taxation**

### **Responsibility**

- 19.1 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.
- 19.2 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.
- 19.3 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.
- 19.4 The Chief Finance Officer shall report any significant changes relating to the Council's tax affairs to Strategy and Resources Committee.
- 19.5 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.
- 19.6 The Chief Finance Officer shall issue instructions and manuals as appropriate based on up to date legislation.



## **Appointment of Advisors**

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

## **Property Transactions**

- 19.8 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**

### **20 Partnerships, External Arrangements and Work for Third Parties**

- 20.1 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.
- 20.2 The Chief Finance Officer is responsible for issuing any required guidance on the financial aspects of contracts with third parties and external bodies.
- 20.3 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.
- 20.4 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.
- 20.5 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.
- 20.6 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.
- 20.7 The Director or Heads of Service must also ensure that adequate records are maintained of any expenditure, grant or income including match funding.

- 20.8 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.
- 20.9 Any contracts must comply with the Council's Contract Standing Orders.

## **SECTION 6 - Contract Standing Orders**

Approved by Council: 7 December 2021

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		Annex 2 – EU Procurement Directive Thresholds
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## **Section 1**

### **1 Introduction**

- 1.1 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.
- 1.2 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.
- 1.3 The Procurement Officer 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 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.
- 2.2 Where the value of the contract exceeds the relevant EU Procurement Directive threshold then the Council must comply with the EU tendering requirements set out in the PCR 2015.
- 2.3 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 All Officers purchasing on behalf of the Council are expected to comply with these CSOs.
- 3.2 All purchasing 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 Purchase Orders must be approved and/or Contracts signed by both parties prior to any contract start date.
- 3.4 Where an Officer has deliberately disaggregated a contract to avoid a particular threshold procedure, the relevant Head of Service 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.
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, Head of Corporate Assurance and the Emergency Planning Officer. 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 The Procurement 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 complaint, cost effective and good quality contract.

- 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. Contract Register
  - b. Waiver log
- g) Embedding social value and sustainability appropriately across Council expenditure
- h) Offering 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.

5.2 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.

## **6 Purchase Orders**

- 6.1 Purchase Orders (PO) should be raised in the Council's Purchasing system.
- 6.2 When an invoice is received, a PO number should be clearly highlighted and the invoice signed off by an authorised signatory;
- 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

## **7 Purchasing Cards**

- 7.1 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.

## **8 Temporary Staff, Consultants and Professional Services**

- 8.1 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 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 managed 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 and the role is considered specialist.
- 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.

## **9 IR35**

- 9.1 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. 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 the decision wrong. If it 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.
- 9.2 Further IR35 advice can be found via the link within Annex 3 or by contacting the HR Team.

## **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.

## **11 Social Value**

- 11.1 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.
- 11.2 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.
- 11.3 The Social Value Act 2012 currently applies only to service contracts over the EU threshold (£189k) 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.
- 11.4 It is the Contract Managers responsibility to ensure SV is being delivered during the life of the contract.

## **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. As part of the Councils due diligence on all new suppliers, and proportionate to the level of supply chain risk, additional questions may be posed at the assessment stage to consider how suppliers manage their own supply chain risk.

## **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 2021. 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 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 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. Furthermore, In-Tend publish contract and award notices automatically to Contracts Finder and Find A Tender platforms ensuring the procurement exercise remains compliant.

17.2 In-Tend set-up, passwords, support and training can be sought from the Procurement Officer.

## **18 Contract Register**

18.1 The Councils has a statutory obligation to publish any spend over £500 and Contracts over £5,000 on it's website.

18.2 Officers who award contracts over £5,000 must inform the Procurement Officer of each contract for the Contract Register to be updated.

## **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 framework agreements which have been tendered; internal budget approval must be sought.
- 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. Head of Corporate Assurance
2. Chief Finance Officer

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 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 Officer must maintain a log of all waivers.

### **Section 3**

#### **22 Permission to tender**

22.1 Heads of Service have the authority to commence a tendering process provided there is a business case for the procurement and financial provision has been obtained.

22.2 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.

#### **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)

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, Officer must ensure they have conducted an options appraisal 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.

## **25 Declaration of Interest**

- 25.1 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.

## **26 Contract Management**

- 26.1 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;
- 26.2 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.
- 26.3 The Councils Contract Manager should be contacted for further advice and support

## **SECTION 4**

## **27 Form of Contract**

- 27.1 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.
- 27.2 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.
- 27.3 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
- 27.4 Except in exceptional circumstances with the prior written approval of the Chief Executive, all Contracts must be signed or Sealed before their commencement.
- 27.5 Every Contract in excess of £100,000 must contain a comprehensive Business Continuity plan.
- 27.6 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.
- 27.7 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.
- 27.8 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.

## **28 Sealing and Signing of contracts**

- 28.1 Contracts within Threshold 1 shall be the subject of a Purchase Order unless otherwise stated, in which case a formal Contract shall take account of an appropriate level of legal advice.
- 28.2 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.
- 28.3 Every contract valued at £750,000 or more shall be sealed with the common seal of the Council.
- 28.4 For all contracts under £750,000 the awarding officer may sign the contract on behalf of the Council.

## **29 Novation**

- 29.1 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.
- 29.2 Novation is not permitted without the express consent of the Head of Service and Legal Services.

## **30 Financial Security**

- 30.1 Adequate financial security and/or a performance bond must be required for all Contracts within Threshold 3.
- 30.2 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.

30.3 Any variation from 30.2 must be agreed with the Head of Corporate Assurance

### **31 Economic and Financial Standing**

31.1 The Councils will examine and maintain the credit report of all suppliers to gauge its economic and financial status.

## **Section 5**

### **32 Disposal of Land and Property**

32.1 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.

### **33 Disposal of Other Council Assets**

33.1 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.

33.2 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.

33.3 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.

33.4 Assets with a value of £10,000 or less may be sold for the best price possible.

33.5 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.

33.6 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.

33.7 Council officers or members are not permitted to purchase any Council assets.

33.8 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.

33.9 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.

### **34 Work for Third Parties**

34.1 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.

### **35 Partnerships**

35.1 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.

35.2 Unless specifically agreed by the relevant committee, partnership arrangements shall only be entered into in accordance with the provisions of these CSOs.

35.3 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.

35.4 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.

## **36 Council Members and Contracts**

- 36.1 No member shall have authority to enter into any contract on behalf of the Council.
- 36.2 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:

<b>Contract Standing Orders - Procedures for Procurement - minimum requirements</b>											
	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 *	e-Sourcing platform or Email	Service Officer	N/A	Purchase Order  (or bespoke contract if appropriate)	Budget holder	Budget holder approves PO	Completed Quick Quote document to be stored within team drives
Threshold 2	£25,000 to £189,329 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	Standard EEBC Contract / JCT /Framework	Head of Service	Head of Service	Completed RFQ document to be stored within team drives
Threshold 3	Over £189,330 Invitation to Tender (ITT)	<ul style="list-style-type: none"> <li>e-Sourcing platform</li> <li>FTS</li> <li>Contracts Finder</li> </ul>	Yes	Goods & Services – Full tender  Works – competitive quotation**	e-Sourcing platform	Procurement Officer	PCR 2015 Timescales	Bespoke EEBC Contract / JCT /Framework	Head of Service & Head of Finance & Appropriate Committee	Under £750k - Head of Service  Over £750K – sealed as a Deed by Legal Services	ITT and Reg 84 document to be stored within eSourcing portal.

If any Officer identified within the ‘who must approve the contract’ and/or ‘who signs the contract on the Councils behalf’ 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.

\* 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.

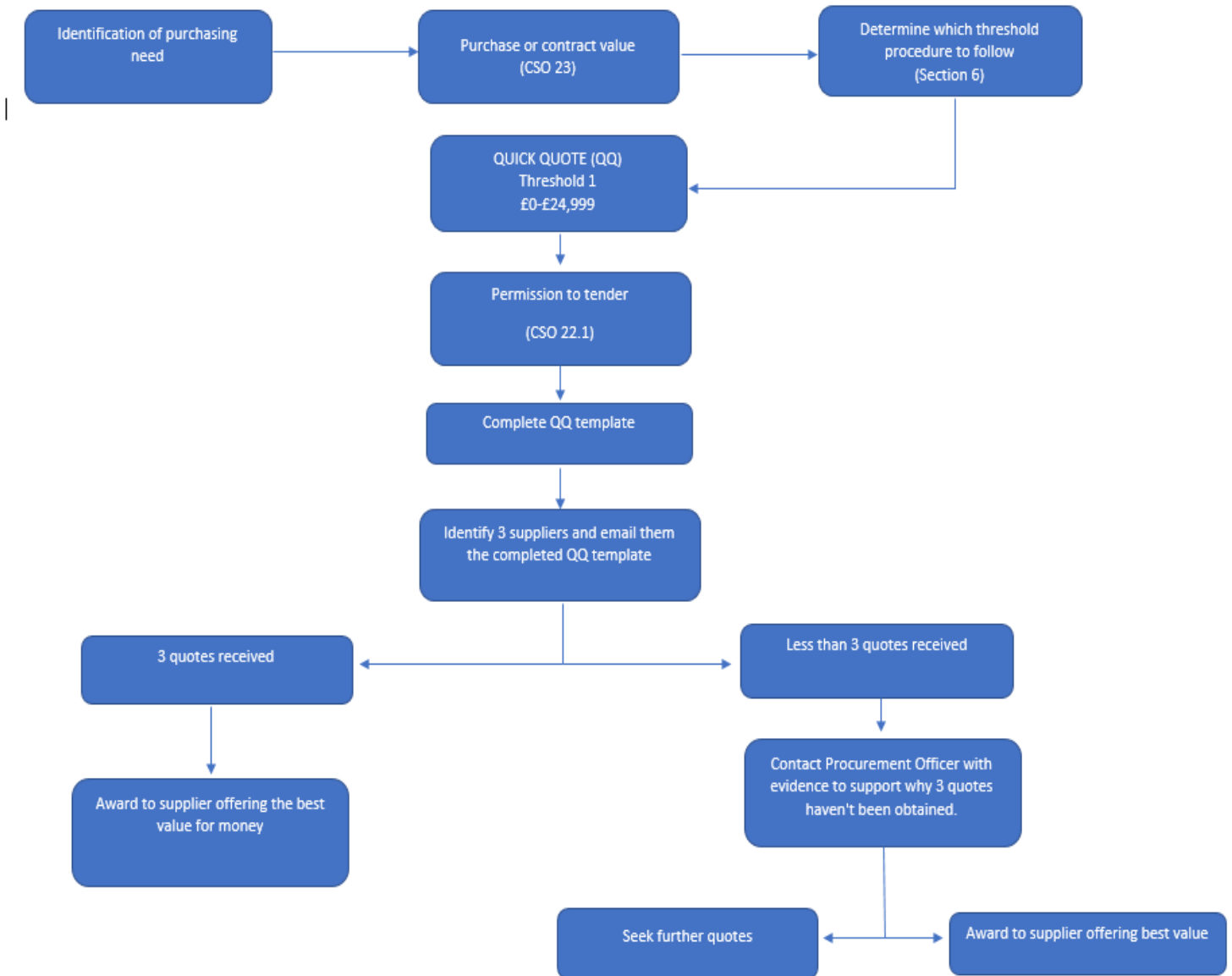
\*\*Works up to threshold:

- Competitive quotation & Construction Line should be used to select a shortlist of suitable contractors
- Works over threshold: Full tender

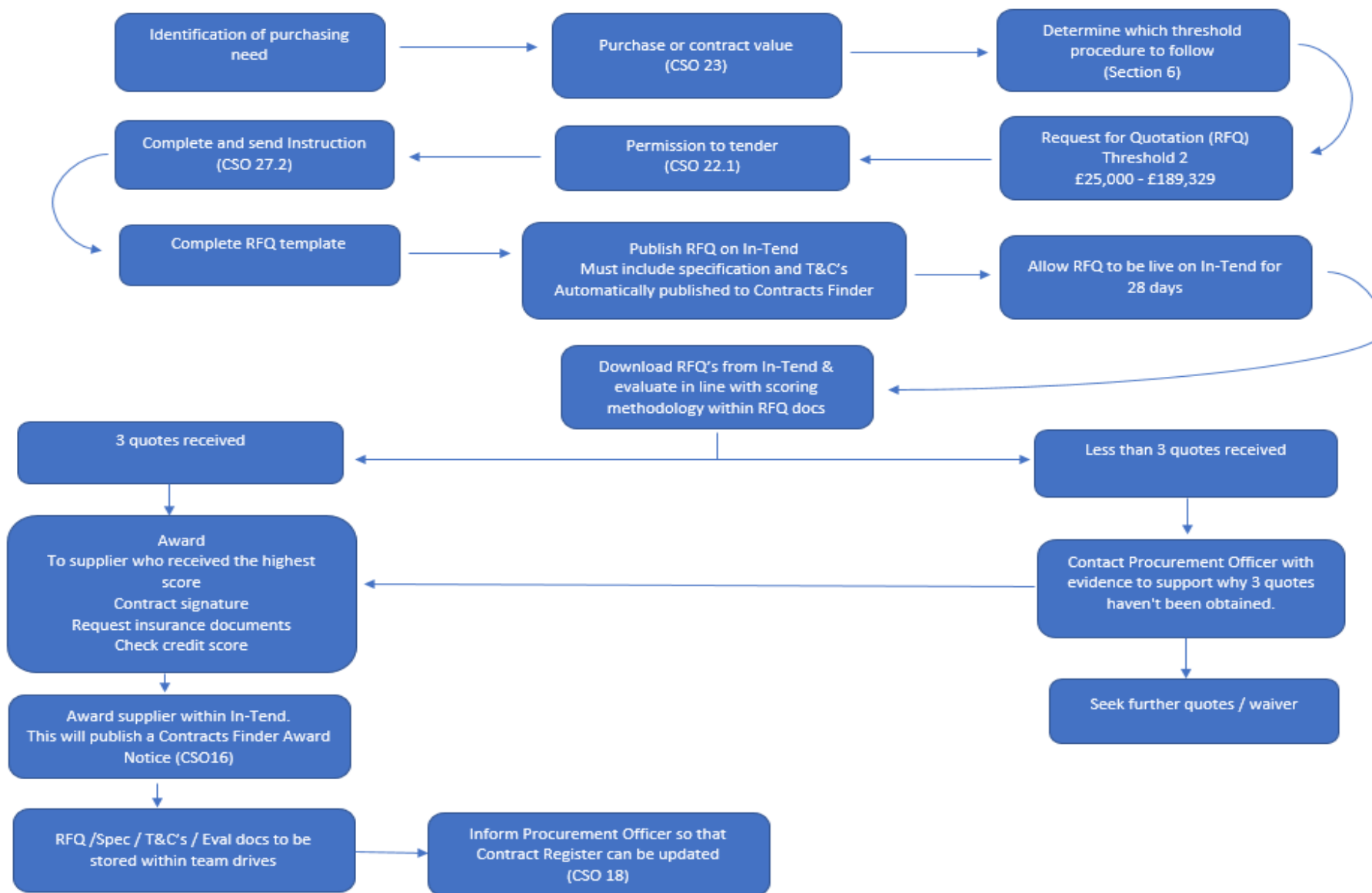
Updated by Council on 15 February 2024

## Annex 1 – Officers Process Guide

- Quick Quote (QQ)



## Request for Quotation (RFQ)



## Annex 2 – EU Procurement Directive threshold

The financial thresholds are 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	£189,330
Subsidised Service Contracts		
	All Bodies	£189,330
Works (including subsidised Works Contracts)		
	All Bodies	£4,733,252
Light Touch Regime for Services		
	All Bodies	£663,540
<b>The Utilities Contract Regulations</b>		
Supplies and Services		
	All Sectors	£378,660
Works		
	All Sectors	£4,733,252
<b>The Concession Regulations</b>		
	Concession Regulations	£4,733,252



### **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 \(Section 3; best value\)](#)

## **SECTION 7 - Officer Employment Procedure Rules**

### **1 Recruitment and Appointment**

#### **1.1 Declarations**

- (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew, or niece of an existing Councillor or Officer of the Council; or the partner of such persons;
- (b) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Director or an officer nominated by him/her.

#### **1.2 Seeking support for appointment**

- (a) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or Officer for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (b) No Councillor or Officer will seek support for any person for any appointment with the Council.

### **2 Recruitment of Directors**

2.1 Where the Council proposes to appoint a Director, the Chief Executive, in consultation with the Panel referred to in 2.2 below, will: -

- (a) draw up a statement specifying: -
  - (i) the duties of the Officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

2.2 The Chief Executive and HR Manager will, after consultation with the Panel, interview and select candidates for final interview by that Panel, consisting of the Chairman of the Strategy and Resources Committee, three other Councillors trained in interview techniques (to include appropriate minority group representation) together with the Chairman or Vice-Chairman of any other Committee concerned.

- 2.3 A panel of five members, composed of the Chairman of the Strategy and Resources Committee and four other members appointed by that Committee (to include appropriate minority group representation) will make all necessary arrangements for the recruitment and selection of the Chief Executive in accordance with the arrangements set out in 2.1 above.

### **3 Appointment of Directors**

- 3.1 The panel referred to in 2.2, above, will have power to appoint Directors.

### **4 Appointment of Chief Executive**

- 4.1 The Full Council will approve the appointment of the Chief Executive following the recommendation of the panel referred to in 2.3 above.

### **5 Officers below Directors**

- 5.1 Appointment of Officers below Directors is the responsibility of the Chief Executive or his/her nominee and may not be made by Councillors (except that in the case of Division Heads, provision will be made for consultation with the appropriate Committee Chairman).

### **6 Disciplinary Action for Alleged Misconduct (including Dismissal)**

- 6.1 **Suspension:** The Chief Executive, Director of Finance and Resources and Monitoring Officer may be suspended by a decision of the Full Council whilst an investigation takes place into alleged misconduct. The suspension will be on full pay and last no longer than two months.
- 6.2 **Independent person:** No other disciplinary action may be taken in respect of any of those officers, except in accordance with a recommendation in a report made by a designated independent person under Regulation 7 of the Local Authorities (Standing Orders) Regulations 2001.
- 6.3 **Involvement of Councillors:** Councillors will not be involved in any disciplinary action against any officer below Director except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related appeals procedures, as adopted from time to time.

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# **PART 5**

# **Codes and Protocols**

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## **SECTION 1 –Code of Conduct for Members**

*Issued July 2012; Updated April 2019*

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

### Appendix

1. Glossary
2. Pecuniary Interests

<b>1 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>
----------	---

- 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 citizens' 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 Appendix 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 discloseable 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, 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

### Dispensations

- 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, he/she considers 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, 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 his/her 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 Strategy & Resources. 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 his/her 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 his/her 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 Hearings 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 his/her 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 his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Subject Member has failed to comply with the Code of Conduct. The Subject Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub Committee as to why he/she considers that he/she 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 he/she 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 he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## Appendix 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

## Appendix 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.

## **SECTION 2 - Officers' Code of Conduct**

**Issued: December 2003; Revised November 2010.**

### **1 Introduction and Scope**

- 1.1 The public is entitled to expect the highest standards of conduct from all employees working for Epsom and Ewell Borough Council. Public confidence in employees' integrity would be shaken were the least suspicion to arise, however ill founded, that they could in any way be influenced by improper motives. The role of employees is to serve the Council in providing advice, implementing its policies and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity
- 1.2 The Council has approved this Code of Conduct after consultation with representatives of staff. The Code applies to all employees and draws together existing laws, regulations, standing orders, policies and conditions of service relating to conduct and provides further guidance to assist and protect staff in their day-to-day work. The Code is specifically linked to the following related Council policies:
- Gifts & Hospitality
  - Dress Code
  - Code of Conduct for Members and Co-opted Member
- It also relates to other Council policies including:
- Recruitment & selection
  - Confidentiality
  - ICT security
  - Data Protection
  - Whistleblowing
- 1.3 Unless otherwise stated, failure to follow the various guidelines and requirements set out in this Code could result in disciplinary action being taken, which could ultimately lead to dismissal. Equally, the Council's Grievance Procedure would apply if any member of staff were unhappy at the way the Code was applied in his/her case. It is therefore important that staff familiarise themselves with the contents of this Code.
- 1.4 Copies of the individual policies or terms and conditions of employment referred to in the Code are available for reference on IRIS, (the Council's Intranet), or from Human Resources and employees should feel free to refer to them to seek clarification on any point at any time or to speak to Human Resources in confidence on any specific matter arising from it. If in doubt on any matter arising from the Code, an employee should always seek advice as soon as possible.



1.5 The Code gives detailed advice and guidance in a number of specific areas as follows: -

<u>Section</u>	<u>Subject</u>
2	Standards in General
3.	Political Neutrality
4.	Disclosure of Information
5.	Relationships
6.	Financial Regulations and Standing Orders relating to Contracts
7.	Separation of Roles during Tendering
8.	Recruitment and other Employment Matters
9.	Outside Interests and Politically Restricted Posts
10.	Personal Interests
11.	Equality and Health and Safety Issues
12.	ICT Security
13.	Gifts and Hospitality
14.	Dress Code
15.	Whistleblowing

1.6 In particular, please note that employees are required to report full details of: -

- a) Personal friendships/relationships with Councillors, contractors or potential contractors (see section 5 of the Code)
- b) Personal interests in certain financial and non-financial matters, especially contracts (see section 10 of the Code)
- c) Hospitality received and offered (see section 13 of the Code)

1.7 The Monitoring Officer (Chief Legal Officer) holds two registers for these purposes. The forms are held as templates on IRIS or hard copies can be obtained by contacting the Monitoring Officer.

1.8 The Registers will not be open to public inspection but will be open to inspection by Members of the Council, the Monitoring Officer, the Chief Executive or members of staff authorised to do so by the Monitoring Officer in the course of their duties. Other than in these circumstances, the Registers can only be inspected with either your prior consent or under any statutory right of access.

## 1.9 **Scope**

The Code applies to all employees. You must:

- (a) maintain conduct of the highest standard so that public confidence in your integrity is sustained
- (b) treat others with respect
- (c) comply with this Code whenever you conduct the business of the Council or act, claim to act or give the impression you are acting as a representative of the Council
- (d) recognise your duty to discharge public functions reasonably and according to the law

## 2 **Standards in General**

- 2.1 You are expected to give the highest possible standard of service to the public and, where it is part of your duties, to provide appropriate advice to councillors and fellow employees with impartiality.
- 2.2 You will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. You must report any impropriety or breach of procedure. Normally this would be to your Line Manager but in exceptional cases, may be direct to a Director or the Chief Executive. Further information is contained in the Council's Whistle-blowing Policy.
- 2.3 Conversely, you should be aware that it is a serious criminal offence for you corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, something or for showing favour, or disfavour, to any person in your official capacity.

## 3 **Political Neutrality**

- 3.1 You serve the Council as a whole. It follows you must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected. The Member/Officer Protocol provides further guidance on the respective role of members and officers and principles governing general conduct.

- 3.2 If you are called upon to advise a specific political group within the Council, either as to the work of the group or as to the work of the Council, you may only do so with the prior consent of your Director. You must not attend any meeting of any such political group without the prior agreement of the Chief Executive.

## **4 Disclosure of Information**

- 4.1 It is generally accepted that open government is best in the dissemination of information and in decision-making. The law requires that certain types of information must be available to Councillors, auditors, government departments, service users and the public. Equally the Council has statutory and common law obligations to keep certain information confidential, or to divulge only certain restricted information.

You must not disclose information given in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where you have the consent of a person authorised to give it or they are required by law to do so. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a relevant authority employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions.

Equally, you must not prevent another person from gaining access to information to which that person is entitled by law.

- 4.2 The Council's practice has always been to make as much information available to the public as possible and, since 1 January 2005, there is a positive obligation to do so in accordance with the Freedom of Information Act 2000.
- 4.3 In preparing committee reports, items should not be made "exempt" even though this might be technically possible, unless disclosure would prejudice the position of the Council or the individual or organisation concerned. Whenever possible, such information should be restricted to an exempt appendix. Generally therefore you may release factual information unless it:
- (i) is (or is likely to be) the subject of an exempt report;
  - (ii) relates to the personal circumstances of an employee (or ex-employee, apart from references) or Councillor, a member of the public or organisation. Such information can only be released by first obtaining the person's or organisation's permission for the disclosure; or
  - (iii) is covered by restrictions under the Data Protection Act 1998 or an exemption under the Freedom of Information Act 2000.

Further guidance on the disclosure of information can be obtained from the Monitoring Officer.

- 4.4 You should pay particular attention to requests for information from the Press or Police. Enquiries from the police should be referred to your Head of Service and enquiries from the press should be referred to the communications team. Further guidance on publicity and the media is contained in the Member/Officer Protocol.
- 4.5 You should not use any information obtained in the course of your employment for personal gain nor should you pass it on to others who might use it in such a way.

## **5 Relationships**

5.1 You must:

- (a) treat others with respect;
- (b) not discriminate unlawfully against any person; and
- (c) treat members of the Council professionally

You should deal with other employees, the public and Councillors sympathetically, professionally, efficiently and without bias. Mutual respect between employees and Councillors is essential to good local government and working relationships should be kept on a professional basis.

### **Councillors**

5.2 Councillors are responsible to the Council through its Senior Managers. For some officers, their role is to give advice to Councillors and the Council. Mutual respect between them and Councillors is essential to good Local Government. Close personal familiarity with individual Councillors can damage that relationship and prove embarrassing to other employees and should be avoided. Any close personal friendships with Councillors should be declared to the Monitoring Officer and recorded in the Register of Interests. Please also refer to the Member/Officer Protocol for further guidance regarding working relationships with Councillors.

### **The Local Community and Service Users**

- 5.3 You should always remember your responsibilities to the community and ensure courteous, professional, efficient and impartial service delivery to all groups and individuals within that community.
- 5.4 You are reminded of the requirement to comply with the Council's policies.
- 5.5 You are strictly prohibited from soliciting tips.

### **Contractors**

5.6 Orders and contracts must be awarded on merit, by fair competition against other tenders, and no favouritism should be shown to businesses run by, for example, friends, partners or relatives. No part of the community should be discriminated against.

- 5.7 All personal relationships with contractors, or contractors who could bid for Council work, i.e. any previous or current working relationship or friendship in a private capacity, should be declared to the relevant Director and recorded in the Register of Interests. In certain cases, not to divulge such information could contravene the law. This is particularly important if employees engage or supervise contractors or if they have an official relationship with contractors.
- 5.8 If you stand to gain financially from any contract or potential contract of the Council, you must declare it in writing to the appropriate Director, and you will be excluded from the process, particularly any decisions relating to the award of that contract. This applies whether the contract is let formally through the tendering process or in some less formal way.
- 5.9 The Director may require you to review your position and update information recorded at regular intervals depending on the circumstances.
- 5.10 No gifts or hospitality may be accepted from any person or organisation that is seeking to compete for Council work. This principle also applies in a Planning context where developers are in competition for a particular site in the Borough. For circumstances in which it is permissible to accept gifts and hospitality, see paragraph 13.

### **Work Colleagues**

- 5.11 You should always treat colleagues with fairness, dignity and respect. Mutual respect between colleagues is essential to good working relationships. The Council will not tolerate bullying, harassment or victimisation of anyone in any form. Please also see the Council's Bullying & Harassment policy and 'Dignity at Work' policy.
- 5.12 If you have a grievance or complaint about your employment e.g. working conditions or relationships with colleagues you should refer to the Council's grievance policy. If you have a grievance or complaint regarding a Councillor you should follow the procedure outlined in the Code of Conduct part 5, section C, 7.1, 7.4 and 7.5.

## **6 Financial Regulations and Standing Orders Relating to Contracts**

- 6.1 You must ensure that public funds are used in a responsible and lawful manner. You should strive to ensure value for money to the local community and to avoid legal challenge to the Council.
- 6.2 Standard procedures (Financial Regulations) have been agreed which govern the Council's financial matters and detail arrangements for handling money.
- 6.3 Likewise Contract Standing Orders detail the procedures to be followed in awarding contracts for work or services.

- 6.4 If your work involves the handling of money or awarding of contracts you must familiarise yourself with the requirements of the Council's Financial Regulations and appropriate Standing Orders. Failure to follow the correct procedures will be treated as a serious matter.
- 6.5 You must not utilise property, vehicles or other facilities of the authority for personal use unless specifically authorised to do so

## **7 Separation of Roles during Tendering**

- 7.1 If you are involved in the tendering process and dealing with contractors, you should be clear on the separation of client and contractor roles within the Authority. If you are a senior member of staff who has both client and contractor responsibility, you must be aware of the need for accountability and openness.
- 7.2 If you work in contractor or client units you must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 7.3 You should ensure that no special favour is shown to current or (recent) former members of staff, councillors or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

## **8 Recruitment and other Employment Matters**

- 8.1 If you are involved in recruitment decisions you should ensure that these are made on the basis of merit. It is unlawful to make an appointment that is based on anything other than the ability of the candidate to undertake the work. In order to avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant, or have a personal relationship (friendship or otherwise) outside work with him or her. You should declare any such relationship to your Director in advance.
- 8.2 Similarly, you should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close personal friend. Such relationships with any other employee should be declared to your Director and registered in the Register of Interests. Please also see the Council's Recruitment policy and Casual policy.

## **9 Outside Interests and Politically Restricted Posts**

- 9.1 Your off-duty hours are your personal concern but you should never put yourself in a position where your duty as a Local Government Officer and your private interests conflict. The Council will not attempt to preclude you from undertaking additional employment provided that such employment does not, in the view of the Council, conflict with your job or have a detrimental impact on the Council's interests, or in any way weaken public confidence in the conduct of the Council's business.

- 9.2 You are required to obtain written consent from your Director to take any other employment or occupation either paid or unpaid in addition to your post held with the Council. This includes directorships, consultancies and sponsorships by any company, organisation or individual. You should be clear about your contractual obligations to the Council and should not take outside employment, which conflicts, or might conflict in the future, with the Council's interests. Any employee undertaking additional work outside of the Council is required to complete a 'Declaration of Other Work' and submit to HR.
- 9.3 You may not carry out work arising from additional employment in Council time nor use Council resources or facilities (including typing) for those purposes.
- 9.4 Private use of Council facilities, other than prohibited by section 9.3 above, e.g. making telephone calls, using fax or photocopiers, should be declared.
- 9.5 You should follow the Council's policies on the ownership of intellectual property or copyright created during your employment i.e. all:
- (i) Creative designs, writings and drawings produced by you in the course of your duties, belong to the Council;
  - (ii) Inventions made by you are the property of the Council if made during the course of your normal duties (which includes those described in your notice of terms of employment, and any other duties arising from your Manager or other authorised officer of the Council).
- 9.6 Some posts are 'politically restricted,' by law, which means that the postholder is unable to take part in political activity or become an elected member of any public authority whilst in the employment of the Council. Your role is politically restricted if:
- (i) it is covered on the list of roles specifically restricted eg monitoring officer
  - (ii) your post meets the duties-related criteria for determining a "sensitive" post, irrespective of remuneration level, unless you appeal successfully against the determination. These posts are defined as those that give advice (excluding purely factual information) on a regular basis to the council, any committee or sub-committee of the authority or any joint committee on which the council is represented, or speak on behalf of the council on a regular basis to journalists and broadcasters
- 9.7 If this is applicable to you, your contract of employment will include an appropriate clause. In all other circumstances, you must record in the Register of Interests and declare to your Director any membership of a Local Authority. You should check your contract of employment if you are unsure if your post is politically restricted and the implications of this.

## **10 Personal Interests**

- 10.1 You must not:
- (a) allow your private interests or beliefs to conflict with your professional duty
  - (b) misuse your official position or information acquired in the course of your employment to further your private interest or the interests of others
- 10.2 You must declare to your Director, and record in the Register of Interests, non-financial interests that you consider could bring about conflict with the Council's interests or activities. Examples might be membership of the committee of an organisation seeking or receiving grant aid from the Council or involvement with an organisation or pressure group that may seek to influence the Council's policies. Ordinary membership of organisations, whether local or national, will not usually be relevant.
- 10.3 You must also declare and register any financial interests which could conflict with the Council's interests e.g. any pecuniary interest in a business or company within Epsom and Ewell or with which the Council might do business.
- 10.4 You must declare and register any interest you have as a freeholder, lessee, licensee or tenant in any land or property in the Borough of Epsom and Ewell, apart from your main residence, which will already be recorded in your personnel records.
- 10.5 You must never become involved in dealing with or determining any application or request that you or a member of your family or personal friend make to the Council, for example, an application for planning permission, council tax or housing benefit.

## **11 Equality and Health and Safety Issues**

- 11.1 You must comply with policies relating to equality issues as agreed by the Council, in addition to the requirements of the law. All members of the local community, customers and other staff have a right to be treated with fairness and equity.
- 11.2 You should also ensure that policies relating to health and safety issues as agreed by the Council are complied with, in addition to the requirements of the law, in particular the Council's policy relating to smoking, drugs, alcohol and substance misuse.



## **12 ICT Security**

- 12.1 You must comply with policies relating to the security of the Council's computer systems as agreed by the Council. All new employees, agency workers and work experience students are required to sign their agreement and compliance.

## **13 Gifts and Hospitality**

- 13.1 Hospitality may sometimes be appropriate as part of a normal business arrangement. The Council requires you to declare all gifts and hospitality given or offered as part of your employment with the Council (however this does not apply to tea/coffee or small work related gifts, such as pens or diaries). Gifts of any description having a value in excess of £25 must be refused, unless your Director agrees that you can register and keep it.
- 13.2 You may accept being taken to lunch by contractors and suppliers where this lunch is part of legitimate dealings with the Council, and provided the Council is already doing business with that contractor or supplier. However, all such paid lunches must be recorded in the Register of Interests/Gifts and Hospitality if the value is £25 or more or if you consider that it should be recorded. This includes any corporate hospitality days.
- 13.3 In considering whether or not the gift or hospitality is appropriate, the question 'how will this look?' must be asked: if the hospitality could look like corruption to another party (e.g. to a councillor, council tax payer, another rival contractor), it should not be offered or accepted. For example, taking a contractor or supplier to lunch after a contract has been let could be a useful opportunity to talk through the details of the work and build a better working relationship. However, taking to lunch or accepting lunch from a supplier before a contract is let would be unacceptable as it could look as if that supplier was being unfairly favoured.

## **14 Dress Code**

Employees of the Council are expected to comply with the Council's Dress Code. Please see the Council's Dress Code policy for further details.

## **15 Whistleblowing**

Where an employee becomes aware of activities that he/she believes to be illegal, improper or unethical the employee should report the matter, acting in accordance with the employees rights under the Public Interest Disclosure Act 1998 and with the Council's confidential reporting procedure. Please see the Council's Whistleblowing policy for further details.

## SECTION 3 - Protocol for Managing Member/Officer Relations

*Issued July 2002; Revised: December 2007; July 2018*

### 1 Introduction

- 1.1 This Protocol is primarily based on the model prepared by Birmingham City Council, which was referred to in the Nolan Committee report<sup>1</sup> as an example of good practice.
- 1.2 The purpose of this Protocol is to guide Members 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 Code of Conduct for Members and the Code of Conduct for Officers. The shared objective of these codes is to maintain and enhance the integrity (real and perceived) of Local Government and they therefore 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 Members and Officers. If the Protocol is followed, it should ensure that Members receive objective and impartial advice and that Officers are not subject to accusations of bias, and any undue influence from Members.
- 1.7 Given the variety and complexity of Member/Officer relations, any protocol cannot seek to be entirely prescriptive or comprehensive. Although some of the references 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.

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<sup>1</sup> “**Standards in Public Life**”, the report of the Nolan Committee can be accessed at: <http://www.archive.official-documents.co.uk/document/parlment/nolan2/nolan.htm>

- 1.8 In appreciation that this will be an evolving document and recognising the rapid changes in working practices both statutory and social (e.g. new technology), the Protocol will need to be reviewed regularly.
- 1.9 This Protocol, where applicable, will also apply to lay or co-opted Members of Committees.
- 1.10 If a councillor is unsure about any matter, s/he should contact the relevant Group Chairman/Leader or the Monitoring Officer for appropriate advice and assistance. If an Officer is unsure about any matter, s/he should contact the Monitoring Officer.

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

- 2.1 The Elected Members are responsible for:
- Initiation & direction of Policy;
  - Democratic accountability to the electorate for policies and for service delivery;
  - Scrutiny of Council services;
  - Community leadership; and
  - Promotion of partnership working
- 2.2 The Officers are responsible for:
- Providing the professional advice that Members must have before them when formulating policy and when taking decisions;
  - Implementing Members' 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 schemes of delegation; and
  - Providing information regarding Council services and approved Council policies

## **3 Access to Officers**

- 3.1 If Members wish to raise a request for service delivery (which is a matter covered by the CRM 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, Members should, in the first instance, contact the relevant Head of Service or a nominated officer<sup>1</sup>. Members should seek to avoid, as far as possible, entering an Officer's work area and requiring immediate attention.

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<sup>1</sup> A list of contacts for Heads of Service and other nominated contact officers will be supplied to Members.

- 3.3 If any Member 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 the Chief Executive.
- 3.4 It is important to ensure timely response to correspondence and both Members and Officers should aim to respond to enquiries and requests they have raised, within one week from receipt of the enquiry/request.
- 3.5 If a Member wishes to follow up any unanswered correspondence, they should email the relevant service area's Head of Service to raise the matter.
- 3.6 Where a decision has been delegated to an Officer, whether or not in consultation with nominated Members, it will be notified to all Members through the Council's processes. To assist Members' understanding, Officers should, when requested, explain to a Member the guidelines they use when making a delegated authority decision.

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

- 4.1 Members are entitled to such information as they may reasonably need to assist them in discharging their role as Members of the Council.<sup>2</sup> The legal right of Members 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 Members 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.
- 4.3 The courts have ruled that the test of a Member's need to know derives from the Member's committee responsibilities, but this will not be exclusively the case. A Member 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 Members 'need to know' will rest with the Chief Executive in consultation with the Monitoring Officer.
- 4.4 Members 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 Members are made aware as soon as reasonably possible and before the matter is made public.

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<sup>2</sup> This is covered in more detail in Article 2 and Standing Orders of the Council's Constitution

- 4.5 It is important for Members and Officers to recognise that information disclosed to a Member on a need to know basis should not be disclosed to another Member, unless there is an equal need to know, or the first Member is notified that the information is being so disclosed.
- 4.6 Any correspondence to a constituent, from a Member or Officer, which raises an issue of policy or finance, should be sent to the relevant Head of Service.

## **5 Working Relationships**

- 5.1 Both Members and Officers are servants of the public and they are indispensable to one another. However, their responsibilities are distinct. Members are responsible to the electorate and Officers are responsible to the Council as a whole. The conduct of Members 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 publically and privately.
- 5.2 To ensure that the business of the Council is carried out effectively, Members and Officers should endeavour to create a cordial and collaborative working relationship with each other.
- 5.3 Members 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 is able to carry out these functions both independently and free from any pressure.
- 5.4 Members can expect the following from Officers:
- (i) a commitment to the Council as a whole and not to any political group;
  - (ii) a performance of their duties effectively and efficiently;
  - (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) that they will not use their relationship with Members to advance their personal interests to influence decisions improperly;
  - (xi) that relationships between Members and Officers will never be so close, or appear to be so close as to bring into question the Officer's ability to deal impartially with other Members, 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.

5.5 Officers can expect the following from Members:

- (i) a working partnership
- (ii) an understanding and appreciation of respective roles and pressures;
- (iii) courtesy and appropriate confidentiality;
- (iv) not to put Officers 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 relationships between Members and Officers will never be so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members, individuals or organisations;
- (ix) compliance with the Members' Code of Conduct;
- (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 Member or Officer expressing a relevant concern under the Council's Whistleblowing Policy.

5.7 Any Officer who is personally connected to a Member must notify the Monitoring Officer in writing. This would include a family, business or social connection.

5.8 Both Members 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 Members and Officers may also cause embarrassment to other Members 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 Members should not expect Officers to attend Members homes to conduct or discuss Council business. Nor should Officers expect to attend a Members' home. Generally, for most Officers, Members 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 Members 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 Correspondence between Members and Officers should not be copied to or by Officers to other Members. Nor should such correspondence be disclosed to any third parties be they members of the public, stakeholders or partners.
- 5.12 Under no circumstances should either a Member or an Officer blind copy any of their exchanges to any external third party, Member or Officer. If it is important to raise an issue, then, in the case of Members, such matter must be raised with the Chief Executive in the first instance and in the case of officers with their Head of Service.
- 5.13 As a rule, Members and Officers must not forward their correspondence to any other Member, Officers or external third parties. 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 or for Members advice from the Monitoring Officer.
- 5.14 Members 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 Members as this could amount to breach of personal data or the unintended release of confidential or sensitive information.
- 5.15 Members should never forward Officer correspondence on to any constituent or other third party. If there is a need to forward contact details for an Officer, Members must only forward details of the relevant Head of Service, and only after they have discussed the matter with the Head of Service.

## **6 When Things Go Wrong**

- 6.1 Where a Member considers that he or she has not been treated with proper respect or courtesy by an Officer, or is otherwise concerned with the performance of an Officer, the Member should first discuss the complaint with the relevant Group Chairman or Leader. If the Member 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, by, or with the relevant Group Chairman 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 has not been treated with proper respect or courtesy by a Member, he or she should raise the matter with the Monitoring Officer in the knowledge that the matter will be handled with sensitivity and in confidence. In such circumstances, the Monitoring Officer will take such action as is appropriate.
- 6.3 This protocol does not affect the rights of Officers and Members 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 Members 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 Member of the Council.
- 7.2 The assistance provided by Officers can take many forms ranging from a briefing meeting with a Committee Chair or other 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 Members. All Officers must, in their dealings with political groups and individual Members, 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 Members require the attendance of an Officer at a political group meeting, they must contact the Chief Executive or the Chief Operating Officer first. Any Officer invited to attend meetings organised by any political group should contact the Chief Executive or the Chief Operating Officer, as appropriate, 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 may be called upon to provide a professional opinion. They 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 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, Members should be aware that this would not prevent Officers from disclosing such information to other Officers of the Authority 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 Members and Officers.
- 8.2 Any Member 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 Chairman, Chief Executive or Chief Operating Officer as appropriate.
- 8.3 If a member wishes to approach or is approached by the media for a comment or action involving Council business, the Member should make it clear to the media that any comments that are made are those of the Member 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 Chairman.
- 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 This Protocol is intended to build on the sound arrangements that have existed within the Council for years.
- 9.2 Mutual understanding, respect and openness on these sensitive issues are the greatest safeguard of the integrity of the Council, its Members and Officers.
- 9.3 This Protocol can be revised or amended at any time in accordance with Constitutional requirements.

## **SECTION 4 - Monitoring Officer Protocol**

*Issued: December 2007; Revised December 2008: April 2019*

***This protocol is in addition to any other provisions in the Council's Constitution.***

### **1 Purpose of Document**

- 1.1 The purpose of this protocol is to explain the role of the Monitoring Officer and provide a guide for staff and members as to how it will be exercised in Epsom and Ewell.

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

- 2.1 The Council has designated the Chief Legal Officer as the Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.
- 2.2 The Monitoring Officer has designated the Principal Solicitor as the Deputy Monitoring Officer under Section 5 (7) of the 1989 Act. The Deputy Monitoring Officer will perform the Monitoring Officer's duties where he is unable to act owing to absence or illness.
- 2.3 Both the Monitoring Officer's and Deputy Monitoring Officer'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. In summary, they are as follows:

#### **Local Government and Housing Act 1989, Section 5**

- 3.2 It is the duty of the Monitoring Officer to make a report to the Council about any proposal, decision or omission by the Council, any of its Committees, Sub-Committees or Advisory Panels or any of its office holders or employees which would result in:
- (a) contravention of a statute or rule of law; or
  - (b) maladministration or injustice (but only if a Local Government Ombudsman has investigated the matter).
- 3.3 In preparing such a report, the Monitoring Officer must consult the Council's Head of Paid Service (the Chief Executive) and the Section 151 Officer (Chief Finance Officer).
- 3.4 As soon as he has prepared the report, the Monitoring Officer must send it to every Member of the Council.

- 3.5 The full Council must consider the report within 21 days of the Monitoring Officer having sent it to the Members.
- 3.6 Once the Monitoring Officer 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 they have considered it.

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

- 4.1 Under Section 5 of the Local Government and Housing Act 1989, the Council must provide the Monitoring Officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties to be performed.
- 4.2 Under the Local Authorities (Standing Orders) (England) Regulations 2001, the Council cannot take disciplinary action against its Head of Paid Service, Monitoring Officer or Section 151 Officer except in accordance with a recommendation made by a designated independent person who has investigated the matter. An officer can be suspended on full pay for a maximum period of two months while the investigation is carried out.

#### **5 Provisions in the Council's Constitution**

- 5.1 The Monitoring Officer's functions are summarised in Article 11 of the Council's Constitution. The Monitoring Officer is also given the additional tasks of maintaining and reviewing the Constitution, supporting the Standards Committee, acting as the Proper Officer under the access to information legislation and advising members on matters of legality, maladministration, financial impropriety and probity.

#### **6 Recommended Best Practice in relation to the Monitoring Officer**

- 6.1 Best practice and good governance requires that the Monitoring Officer should:
- (a) be a Chief Officer or at least have the right to receive agendas and minutes of all meetings and attend and speak at them;
  - (b) have a right of access to any meeting, including Members' Briefings;
  - (c) be recognised as the principal adviser to the Standards Committee and the point of reference for advice on the Council's Constitution and powers;
  - (d) have a protocol approved by the full Council setting out how they are expected to discharge their functions, the support and reporting arrangements required, and reporting duties of fellow officers; and
  - (e) have a team with sufficient expertise to keep the Council's constitutional documents under review.

## **7 Operative Provisions of the Protocol**

### **The Monitoring Officer will receive:**

- 7.1 Advance notice of Leadership Team Meetings, copies of all agendas and reports;
- 7.2 Advance notice of meetings whether formal or informal, between the Chief Executive/Chief Officers and Group Leaders/Committee Chairmen where any procedural, vires or other constitutional issues are likely to arise;
- 7.3 Advance notice of all emerging issues of concern, including legality, probity, vires and constitutional issues;
- 7.4 Copies of all reports to members.

### **The Monitoring Officer has the right:**

- 7.5 To attend and speak at any Leadership Team Meetings;
- 7.6 To call for any relevant information, whether confidential or otherwise, and to give that information as appropriate to any body, including the Standards Committee, the Auditor or Ombudsman;
- 7.7 To withhold the identity of a complainant who has made an allegation of misconduct from the Member, in consultation with the Chairman of the Standards Committee and the independent member: such anonymity to last until preparation for the hearing of the complaint;
- 7.8 To withhold from a member, in consultation with the Chairman of the Standards Committee and the independent member the fact that a complaint has been received against them if it is decided that notification may prejudice any subsequent investigation.

### **The Monitoring Officer will:**

- 7.9 Ensure the Head of Paid Service and the Section 151 Officer have up-to-date information regarding emerging issues;
- 7.10 Set up arrangements within the authority to ensure that any allegation made in writing that a member of the authority has or may have failed to comply with the authority's Code of Conduct is referred to the Monitoring Officer immediately upon receipt by the Council;
- 7.11 Maintain a register of such allegations to ensure that the Council can comply with its obligations under the relevant legislation;
- 7.12 Refer all substantive allegations of member misconduct to the Standards Hearing Sub-Committee and refer all other matters for action as appropriate;

- 7.13 Act as Chairman of the Corporate Governance 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;
- 7.14 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 his functions;
- 7.15 Have control of a budget sufficient to enable him to seek Counsel's opinion on any matter concerning the Monitoring Officer's functions;
- 7.16 Be responsible for preparing a training programme for members on the ethical framework;
- 7.17 Report to the Council from time to time on the Constitution and any necessary or desirable changes following consultation in particular with the Head of Paid Service and Section 151 Officer;
- 7.18 Appoint a deputy who will be kept briefed on emerging issues. The nominated deputy will have all the rights and powers of the Monitoring Officer when discharging the role of Monitoring Officer.

**The Monitoring Officer may:**

- 7.19 in consultation with the Mayor and the Chairman of the Standards, defer the making of a formal report under Section 5 of the LGHA 1989 where another investigative body is involved;
- 7.20 Make a report to the Council from time to time as necessary on the staff, accommodation and resources require to discharge the Monitoring Officer's functions.

## SECTION 5 – Protocol on Use of Call-in Procedure

*Issued April 2008*

***This protocol is to be read in conjunction with Paragraph 14, Overview and Scrutiny Procedure Rules, Part 4, Epsom and Ewell Borough Council Constitution, ‘Call-in’.***

- 1.1 Requests for Audit, Crime & Disorder and Scrutiny Committee to consider use of the call-in procedure should be forwarded to the Scrutiny Officer or the Chairman of the Audit, Crime & Disorder and Scrutiny Committee either by e-mail or in person in the first instance. Each request should set out those principles of decision making of Article 12 of the Constitution which the person considers have not been met. All requests shall be logged by the Scrutiny Officer on Form SC/CI 1.
- 1.2 The Chairman of the Audit, Crime & Disorder and Scrutiny Committee shall consider the request regarding use of call-in. He/she shall reject those requests considered frivolous, as well as those outside the remit of the call-in procedure, i.e. those concerning quasi-judicial decisions. Remaining requests shall then be forwarded to the other members of the Audit, Crime & Disorder and Scrutiny Committee for consideration, together with the Chairman, as to whether they should wish to call-in a decision of a policy committee as per the requirements of the Constitution.
- 1.3 In the absence of the Chairman, requests for Audit, Crime & Disorder and Scrutiny Committee to use call-in should be forwarded to the Scrutiny Officer as per paragraph 1. The Scrutiny Officer shall pass the request for the Committee to consider call-in to all other members of the Audit, Crime & Disorder and Scrutiny Committee. The members shall decide whether they wish to instigate call-in as per the requirements of the Constitution.
- 1.4 To ensure openness, all requests for Audit, Crime & Disorder and Scrutiny Committee to consider call-in shall be reported to the formal meetings of the Audit, Crime & Disorder and Scrutiny Committee. Where the members of the Audit, Crime & Disorder and Scrutiny Committee do not call-in a decision of a policy committee, the Chairman of the Audit, Crime & Disorder and Scrutiny Committee shall inform the person requesting that Audit, Crime & Disorder and Scrutiny Committee consider the matter, the decision of the committee, together with its reasons. The reasons shall be recorded on F. SC/CI 1.

- 1.5 When call-in is instigated by a majority of the members of the Audit, Crime & Disorder and Scrutiny Committee, Form SC/CI 2, 'Record of Call-in', should be used (attached). This should be completed by the relevant members of Audit, Crime & Disorder and Scrutiny Committee before the expiry of five working days after the publication of the policy committee decision. It should be forwarded to the Scrutiny Officer either by e-mail or by use of a hard copy. Audit, Crime & Disorder and Scrutiny Committee members wishing to call-in a decision of a policy committee should set out the reasons for the call-in in detail on page 2 of Form SC/CI 2 with particular reference to Article 12 of the Constitution, 'Principles of Decision Making'.
- 1.6 To ensure openness and transparency, in addition to the members of the relevant policy committee (as required by the Constitution) the following shall, where possible, be informed of a decision of the Audit, Crime & Disorder and Scrutiny Committee to instigate a call-in, and of the Committee's final decision:
- (a) All Councillors
  - (b) Chief Executive
  - (c) Chief Legal Officer
  - (d) Committee Services
  - (e) Relevant officers
  - (f) Member(s) of the public who requested the call-in.

## **SECTION 6 - Code of Conduct and Practice in Licensing Procedures and Hearings**

*Effective from 21 March 2005; updated xx 2019*

### **1 Introduction and status of code**

- 1.1 The purpose of this Code is to assist Members in the discharge of the Council's licensing function and to guide applicants and other interested parties. The Code relates to all Councillors and not just to those who are members of the Licensing Sub Committees, and also to Council Officers, where appropriate.

### **2 Definitions and interpretations**

- 2.1 "The (Licensing) Authority" means Epsom and Ewell Borough Council.
- 2.2 "Licensing Objectives" means the four objectives the Licensing Authority must have a view to promoting when carrying out its functions under the Licensing Act 2003. The Licensing Objectives are defined in Part 2, paragraph 4 (2) of the Licensing Act 2003.
- 2.3 "Premises" means any vehicle, vessel or moveable structure, or any place or a part of a premises.
- 2.4 "Applicant" means the applicant for the Conversion, Grant or Variation of a licence, or certificate.
- 2.5 "Application" means any application under the Licensing Act 2003, including:-
- (i) Conversion of an existing licence or registration
  - (ii) Grant of a licence, certificate or TEN
  - (iii) Transfer of a licence or certificate
  - (iv) Variation of a licence or certificate (including waiver or modification of a licence condition or to extend the licensed area, amend the licensable activities or extend the licensed hours).
- 2.6 "Authorised Person" is defined in Part 3, paragraph 13 (2) of the Licensing Act 2003, and includes bodies empowered by the Act to carry out inspection and enforcement roles. In respect of all premises, these include; Licensing Authority Officers, Fire Authority Inspectors, Environmental Health Officers and inspectors locally responsible for the enforcement of Health and Safety at Work etc Act 1974.



- 2.7 "Interested Parties" is defined in Part 3, paragraph 13 (3) of the Licensing Act 2003, and includes the bodies or individuals who are entitled to make representations to the Authority on applications for the grant, variation or review of a premises licence, or apply for the review of a licence. These include; a person living in the vicinity of the premises in question; a body representing persons living in that vicinity; a person involved in a business in the vicinity of the premises; and, a body representing persons involved in such business.
- 2.8 "Responsible Authorities" is defined in Part 3, paragraph 13 (4) of the Licensing Act 2003, and includes public bodies that must be fully notified of applications, and are entitled to make representations to the Authority on applications for the grant, variation or review of a premises licence. These include, The Chief Officer of Police, Surrey Fire and Rescue Service, Environmental Health Officers and inspectors locally responsible for the enforcement of Health and Safety at Work etc. Act 1974, Chief Planning Officer, Surrey Area Child Protection Committee and any Licensing Authority (other than Epsom and Ewell Borough Council) in whose area part of the premises are situated.
- 2.9 Party to the hearing" means a person to whom notice of the hearing is to be given in accordance with Regulation 6 (1) of the Licensing Act 2003 (Hearings) Regulations 2005, and "party" and "parties" shall be construed accordingly,
- 2.10 "Representation" means any person who has lodged a written objection to an application in accordance with these rules, and as defined in Part 3, paragraph 18 (6) of the Licensing Act 2003.
- 2.11 "Regulations" means Regulations made under the Licensing Act 2003
- 2.12 In these rules, the masculine always includes the feminine.

### **3 Licensing Sub Committees**

- 3.1 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 determines matters specific to the Licensing Act 2003 and the Licensing (General) Sub Committee determines all other licensing matters.
- 3.2 This Code applies to both Licensing Sub Committees, but is specifically directed to the Licensing (Hearings) Sub Committee, in light of the specific requirements of the Licensing Act 2003.
- 3.3 The Licensing (Hearings) Sub Committee must consist of three Members. No business shall be transacted unless at least three Members are present.
- 3.4 Councillors shall not normally hear an application if they represent the Ward in which the applicant's premises are situated, or if they live within the vicinity of the premises.

## **4 The need for guidance on licensing**

- 4.1 Licensing has a special responsibility to safeguard interests and balance conflicts.
- 4.2 Licensing applications are sometimes amongst the most contentious matters with which the Council deals. The successful operation of the licensing system relies amongst other things, upon ensuring that both Officers and Members act in a way that is not only fair and impartial but is also clearly seen to be so. Licensing decisions can affect land and property values, and it is important that decisions are made openly, impartially, with sound judgement and for justifiable reasons.

## **5 General role and conduct of Members in relation to the licensing system**

- 5.1 The determination of applications by the Licensing (Hearings) Sub Committee is a quasi-judicial process. The role of Members taking licensing decisions has similarities to that of a court of law (and Licensing Justices). Decisions are made after a hearing at which the applicant and objectors are each given an opportunity to put their case. The decision reached must be based upon the evidence heard and a consideration of any relevant Council policies and government advice.
- 5.2 Members of the Licensing (Hearings) Sub Committee should not favour any person, group, company or locality, nor put themselves in a position where they appear to do so, as their overriding duty in making decisions on licensing applications is to do so in a fair and impartial manner, in accordance with the Licensing Objectives, and taking into account any relevant Policy or government guidance.

## **6 Training**

- 6.1 No members should sit on a Licensing (Hearings) Sub Committee without having undertaken training in licensing procedures and legislation as specified by the Council.

## **7 Pre-application discussions**

- 7.1 Pre-application discussions or discussions whilst an application is being processed between Council Officers and applicants can be beneficial. It is often helpful for the Council's officers to be able to give advice at an early stage on relevant licensing policies and to provide details of other known factors, which are likely to be taken into account.

- 7.2 It is however, important that such discussions are not seen as part of a lobbying process, which could prejudice proper consideration of a licensing application. Hence, it should be made clear from the outset that the discussion will not bind the Council to making a particular decision on a licensing application and that any views expressed are personal, provisional and without prejudice. If a pre-application meeting is held this position should be confirmed in a standard letter.
- 7.3 Officer advice should be consistent and based on approved Council policies and known material considerations. It should, as with all officer advice, be politically impartial.

## **8 Lobbying**

- 8.1 Lobbying is a normal and perfectly proper part of the licensing process provided that it does not affect the impartiality of the decision-making. Those likely to be affected by a licensing application may seek to influence it through an approach to their elected Ward Member or other Councillor, who may make representations to the application in accordance with the Rules of Procedure of the Committee (see paragraph 8.3 below). However, personal lobbying of the Members of a Committee, by anybody, including other Councillors, that is to determine the application in question is not appropriate, and can lead to the impartiality and integrity of a Councillor being called into question with the risk of findings of maladministration by the Ombudsman and/or the decision of the Sub Committee being challenged by way of Judicial Review.
- 8.2 A Member who is lobbied by an applicant or objector in relation to an application which may come before a Sub Committee on which that Member may sit, should accordingly refer the person lobbying to another Councillor.
- 8.3 Any Member wishing to rely upon any written material or other evidence which they wish to be considered by a Licensing Sub Committee, must provide such evidence in advance to the relevant officers, and within the timescales prescribed in any Regulations or Council procedures.
- 8.4 Members of any Licensing Sub Committee must make decisions based on the facts of the case. Their decisions must not be predetermined or be subject to a party “whip”. The use of the party whip is considered by the Ombudsman as contrary to the former National Code of Conduct amounting to maladministration if it leads to Members making a particular decision without taking into account all relevant matters.
- 8.5 Should an Officer be subject to lobbying by an applicant, objector, or any Councillor, this will be reported to the Sub Committee determining the application.

## **9 Gifts and hospitality**

- 9.1 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.
- 9.2 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.

## **10 Declaration of interests**

- 10.1 The responsibility for declaring an interest rests with Members. If in doubt, Members should seek advice well in advance of the meeting concerned. Guidance on the declaration of personal and prejudicial interests is contained in the Council's Code of Conduct for Members. Advice is available from the Monitoring Officer.
- 10.2 Where the Member has a DPI, a personal or prejudicial interest in an item on the agenda, it should, of course, be declared. A Member with a DPI or a prejudicial interest will not be entitled to sit on a Licensing Sub Committee deliberating the application in question. Where a prejudicial interest is declared, the Member concerned is required to leave the meeting, unless the member has made representation in their own right, or, is elected to represent an objector who has made a valid representation. In these circumstances, of course, it will not be possible for the Member to take any part in the decision making process.

## **11 Licensing applications submitted by councillors and their close associates or licensing applications which may have an impact on councillors, their families or close associates**

- 11.1 Councillors will wish to have particular regard to the Code of Conduct for Members e.g. where Members act as agents for people pursuing licensing issues.
- 11.2 Given the Code of Conduct for Members, Councillors who have business or other interests that may bring them into contact with the Council's licensing system on a regular basis should not normally sit on the Licensing and Planning Policy Committee or its Sub Committees.

## **12 Member and officer relations**

- 12.1 Good administration is dependent upon a successful relationship between Members 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. Accordingly, Members should not attempt in any way to influence the terms of the officers' report or recommendation on any application. Equally, officers should give firm independent advice.

### **13 The role of the Licensing Officer**

- 13.1 Licensing Officers fulfil two roles at a meeting of a Licensing Sub Committee. Firstly, a role limited to an administrative one, and secondly, a role limited to consideration of the relevant representations from their knowledge of local licensing policy, guidance, statute and good practice.
- 13.2 Licensing Officers do not make recommendations in reports to a Licensing Sub Committee, in terms of the outcome of the hearing, but will introduce the Report and provide the Committee only with summary information such as the following:
- (i) Summary of the application;
  - (ii) Summary of the representations made;
  - (iii) Summary of how s/he views the provisions of the Licensing Policy;
  - (iv) Statement, Guidance of the Secretary of State, and the relevant legislation as relating to the application and any relevant representations;
  - (iv) Summary of any pre-application and pre-decision discussions held with the applicant or bodies making representations;
  - (v) Details of any site visits which took place prior to the application or Committee hearing;
  - (vii) Details of any lobbying activities which have been brought to their notice.

### **Licensing (Hearing) Sub Committees**

#### **14 Period of time in which Licensing (Hearing) Sub Committees to be held**

- 14.1 The Council as the Licensing Authority for matters related to the Licensing Act 2003, shall arrange for a Hearing to be scheduled in accordance with Regulation 5, and shall give a notice of a Hearing in accordance with Regulations 6 and 7 of the Licensing Act 2003 (Hearings) Regulations 2005.

#### **15 Notice of hearing**

- 15.1 In the case of a hearing for cancellation of an interim authority notice following Police objection, or counter notice following Police objection to a Temporary Event Notice (TEN), the Authority shall give notice of hearing no later than two working days before the day or the first day on which the hearing is to be held.

- 15.2 In the case of a hearing for review of a premises licence following closure order; or determination of an application for conversion of existing licence; or determination of application for conversion of existing club certificate; or determination of application by holder of justices; licence for grant of personal licence; the Authority shall give notice of hearing no later than five working days before the day or the first day on which the hearing is to be held.
- 15.3 Annex 1 contains the schedule detailing the provisions under which the hearing is held, and the period of time within which the hearing must be commenced.
- 15.4 The Authority will, when giving notice of the Hearing, follow Regulation 7 of the Licensing Act 2003 (Hearings) Regulations 2005.

## **16 Action following receipt of notice of hearing**

- 16.1 A party shall give to the Authority within the period of time prescribed below, a notice stating:
- (i) whether he intends to attend or be represented at the hearing;
  - (ii) whether he considers a hearing to be unnecessary.
- 16.2 In the case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the Authority in relation to the application, representations or notice of the party making the request.
- 16.3 In the case of a hearing for cancellation of an interim authority notice following Police objection, or counter notice following Police objection to a TEN, the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.
- 16.4 In the case of a hearing for review of a premises licence following closure order, or; determination of an application for conversion of existing licence, or; determination of application for conversion of existing club certificate, or; determination of application by holder of justices; licence for grant of personal licence; the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.

## **17 Right to dispense with hearing if all parties agree**

- 17.1 The Authority may dispense with holding a hearing if all persons required by the Act to agree that such a hearing is unnecessary and have done so by giving notice to the Authority that they consider a hearing unnecessary. In such circumstances the Authority must give notice to the parties that the hearing has been dispensed with.

## **18 Withdrawal of representations**

- 18.1 A party who wishes to withdraw any representations they have made may do so by giving notice to the Authority 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.

## **19 The committee procedure**

- 19.1 The Licensing Sub Committee is serviced by a number of officers. These include a Committee Services Officer and a Legal Advisor who are responsible for ensuring that the correct procedures are followed and that the discussion and the decisions made are properly recorded. An officer from the Licensing Team acts as a presenting officer: introduces the report and answers Members' questions. In addition, other officers such as Environmental Health Officers may attend to address specific technical matters raised by applications included in the agenda.
- 19.2 The Licensing Sub Committee agenda may comprise a single report, or set of reports concerning specific licensing applications. Each report summarises the main issues raised by the application and details the representations received. Applications to be considered by the sub committee will be the subject of a written report from officers.
- 19.3 At the beginning of the hearing, the Chairman shall explain to the parties, the procedure which he/she proposes to follow at the hearing, and shall as appropriate, consider any request made by a party under regulation 8(2) of the Licensing Act 2003 (Hearings) Regulations 2005 for permission for another person to appear at the hearing.
- 19.4 The Licensing (Hearings) Sub Committee shall not permit cross-examination unless it considers it is required for it to consider the representations, application or notice.
- 19.5 The Licensing (Hearings) Sub Committee shall allow parties an equal maximum time period in which to support their representation or application.
- 19.6 The Chairman of a Licensing Sub Committee may require any person attending the hearing who, in their opinion, is behaving in a disruptive manner to leave the meeting and may refuse to permit that person to return, or permit that person to return only on such conditions as the Authority may specify. However, such a person may, before the end of the hearing of their matter, submit to the Authority in writing any information which they would have been entitled to give orally, had they not been required to leave.

## **20 Power to extend time and adjourn hearings**

- 20.1 The Authority may extend a time limit provided for in the Licensing Act 2003 (Hearings) Regulations 2005 for a specified period where it considers this to be necessary in the public interest. In such circumstances, the Authority will issue a notice to the parties stating the period of the extension and the reasons for it.

- 20.2 The Authority may adjourn a hearing to a specified date, or arrange for a hearing to be held on specified additional dates where it considers this to be necessary for its consideration of any representations or notice made by a party. The Authority will issue a notice should it decide to use such power.
- 20.3 The Authority will not exercise this power in such a way that the effect will be that an application will be treated as granted or rejected under paragraph 4 (4), 7 (3), 16 (4), 19 (3) or 26 (4) of Schedule 8 (transitional provision etc), or; it would fail to reach a determination on the review under section 167 within the specified period.

## **21 Hearing to be public**

- 21.1 The Authority may exclude the public (which may include any person assisting or representing a party) from all or part of the 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.

## **22 Right of attendance, assistance and representation**

- 22.1 Subject to 14 (2) and 25 of the Licensing Act 2003 (Hearings) Regulations 2005, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

## **23 Councillor representations**

- 23.1 Where a councillor wishes to express a view on an application either in their own right in the capacity as an interested party, or in a specific representative capacity, he/she must do so in accordance with the procedural rules of the Committee, and the Regulations made under the Licensing Act 2003.
- 23.2 To avoid conflicts of interest, councillors shall not normally hear an application if they represent the Ward in which the applicant's premises are situated, or if they live within the vicinity of the premises. A member of the relevant Licensing Sub Committee who represents or lives in the Ward, which may also be affected by a licensing application, may be in a difficult position if it is a controversial application that has generated opposition. Members in such a situation should therefore not publicly support or oppose a particular outcome unless they are prepared to make their own valid representation. The Member would then become ineligible to take part in the deliberative and decision making process of the Licensing Hearings Sub-Committee concerned with determining that application.

## **24 Representations and supporting information**

- 24.1 A relevant authority or responsible person may make a representation at any time in writing, up to and including, 20 working days after the day on which the application was given to the authority by the applicant.
- 24.2 Anonymous representations will not be considered by the Authority.



- 24.3 Letters of support of an application may be made at any time in writing, up to and including, 20 working days after the day on which the application was given to the authority by the applicant.
- 24.4 At the hearing a party shall be entitled to: -
- (i) in response to a point upon which the authority has given notice to a party that it will want clarification under regulation 7(1)(d) of the Licensing Act 2003 (Hearings) Regulations 2005, give further information in support of their application, representations or notice (as applicable),
  - (ii) if given permission by the Authority, question any other party; and
  - (iii) address the Authority.
- 24.5 Members of the Licensing Hearings Sub Committee may ask any question of any party or other person appearing at the hearing.
- 24.6 In considering any representations or notice made by a party the Authority 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.
- 24.7 The Authority shall disregard any information given by a party or any person to whom permission to appear at the hearing is given by the 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 promotion of the licensing objectives or, in relation to a hearing to consider a notice given by a chief officer of police, the crime prevention objective.

## **25 Frivolous, vexatious or repetitious representations**

- 25.1 Where the Authority considers that representations are frivolous, vexatious or repetitious, the person making the representation will be notified in writing either
- (i) Five working days before the Licensing (Hearings) Sub Committee is to be held (due to relevant representations being made elsewhere), or;
  - (ii) In any other case, before the determination of the application to which the representation relates.

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

- 26.1 If a party has informed the Authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

- 26.2 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, or
  - (ii) hold the hearing in the party's absence.
- 26.3 Where the Authority holds the hearing in the absence of a party, the authority shall consider at the hearing the application, representations or notice made by that party.
- 26.4 Where the Authority adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

## **27 The committee decision making process**

- 27.1 The Licensing Sub Committee shall normally adjourn from the Hearing to deliberate their decision. The Committee may require that the Legal Adviser withdraws with the Panel. In such cases, any advice given by the Legal Adviser shall be relayed in open session once the Panel has reconvened.
- 27.2 The decision on an application should be taken on all of the relevant factors in the case, and in particular the evidence submitted to the Licensing Sub Committee meeting. Each application will be treated on its individual merits. The Sub Committee shall have due regard to, and shall normally follow, any relevant Council approved licensing policies and legislation and regulations that are relevant to the application.
- 27.3 Members may add extra conditions if they are satisfied the imposition of such would go some way to address concerns raised in representations considered valid and pertinent to the application. Due consideration would be given to ensure the imposition of such conditions would be necessary and reasonable.
- 27.4 The Licensing (Hearings) Sub Committee must make its decision at the conclusion of the Hearing for cases under:
- (i) Section 35 or 39 which is in respect of an application made at the same times as an application for a conversion of an existing licence under paragraph 2 of scheduled 8 (determination of application under section 34 or 37)
  - (ii) Section 85 which is in respect of an application made at the same time as an application for conversion of an existing club certificate under paragraph 14 of Schedule 8 (determination of application under section 85)
  - (iii) Section 105 (2) (a) - counter notice following police objection to TEN
  - (iv) Section 167 (5) (a) - review of premises licence following closure order

- (v) Paragraph 4 (3) (a) of Schedule 8 - determination of application for conversion of existing licence
- (vi) Paragraph 16 (3) (a) of Schedule 8 - determination of application for conversion of existing club certificate, or;
- (vii) Paragraph 26 (3) (a) of Schedule 8 - determination of application by holder of a justices' licence for grant of personal licence

In any other cases, the Sub Committee must make its determination within the period of five working days beginning with the day or the last day on which the Hearing was held.

- 27.5 Where a Hearing has been dispensed with in accordance with Regulation 9 of the Licensing Act 2003 (Hearings) Regulations 2005, the Authority must make its determination within the period of ten working days beginning with the day the Authority gives notice to the parties under Regulation 9 (2).

## **28 Record of proceedings**

- 28.1 Hearings will be recorded in a permanent and intelligible form, and retained for six years from the date of the determination, or, where an appeal is brought against the determination of the Authority, the disposal of the appeal.

## **SECTION 7 - Code of Conduct and Practice in Licensing Procedures and Hearings – Gambling Act 2005**

*Effective from April 2007*

### **1 Introduction and Status of Code**

- 1.1 The purpose of this Code is to assist Members in the discharge of the Council's licensing function and to guide applicants and other interested parties. The Code relates to all Councillors and not just to those who are members of the Licensing Committee, and also to Council Officers, where appropriate.

### **2 Definitions and interpretations**

- 2.1 "The Act" means the Gambling Act 2005
- 2.2 "The (Licensing) Authority" means Epsom and Ewell Borough Council
- 2.3 "Licensing Objectives" means the three objectives the Licensing Authority must have a view to promoting when carrying out its functions under the Gambling Act 2005. The Licensing Objectives are defined in Part 1, paragraph 1 of the Gambling Act 2005.
- 2.4 "Gambling" means gaming (within the meaning of section 6); betting (within the meaning of section 9) and; participating in a lottery (within the meaning of section 14 and subject to section 15).
- 2.5 "Application" means an application to the Licensing Authority under the Gambling Act 2005, including:
- (i) Premises Licence namely; Casino Premises, Licence, Bingo Premises Licence, Adult Gaming Centre Premises Licence, Family Entertainment Centre Premises Licence and Betting Premises Licence, Conversion of an existing licence or registration.
  - (ii) Club Gaming Permit and Club Machine Permit
  - (iii) Small Lottery Registration Permit
  - (iv) Prize Gaming Permits
  - (v) Temporary Use Notice (TUN) and Occasional Use Notice (OUN)
- 2.6 "Authorised Person" is defined in Part 15, of the Gambling Act 2005, and includes bodies empowered by the Act to carry out inspection and enforcement roles. In respect of all premises, these include; Licensing Authority Officers, an Inspector appointed under section 18 of the Fire Precautions Act 1971, an Inspector appointed under section 19 of the Health and Safety at Work etc. Act 1974, Environmental Health Officers, and a person who is within a class prescribed by the Secretary of State by Regulations.

- 2.7 "Interested Parties" is defined in Part 8, paragraph 158 of the Gambling Act 2005, and includes persons who (in the opinion of the Licensing Authority) live;
- (i) Sufficiently close to the premises to be likely to be affected by the authorised activities;
  - (ii) Has business interests that might be affected by the authorised activities, or;
  - (iii) Represents persons who satisfy paragraph (a) or (b).
- 2.8 "Responsible Authorities" is defined in Part 8, paragraph 157 of the Gambling Act 2005, and includes;
- (i) The Licensing Authority;
  - (ii) The Gambling Commission;
  - (iii) The Chief Officer of Police;
  - (iv) Surrey Fire and Rescue service;
  - (v) Chief Planning Officer;
  - (vi) Environmental Health;
  - (vii) Surrey Area Child Protection Committee (or other body designated in writing to advise the Authority about the protection of children from harm);
  - (viii) HM Commissioners of Customs and Excise;
  - (ix) Any other person prescribed under Regulations made by the Secretary of State.
- 2.9 "Representation" means any Interested Party or Responsible Authority person who has lodged a written objection to an application in accordance with these rules, and as defined in the Regulations.
- 2.10 "Regulations" means Regulations made under the Gambling Act 2005
- 2.11 In these rules, the masculine always includes the feminine.

### **3 Composition of Licensing General Sub Committee**

- 3.1 The Licensing Hearings Panel shall consist of three Members. No business shall be transacted unless at least three Members are present.
- 3.2 Councillors shall not normally hear an application if they represent the Ward in which the applicant's premises are situated, or if they live within the vicinity of the premises.

## **4 The need for Guidance on Licensing**

- 4.1 Licensing applications are sometimes amongst the most contentious matters with which the Council deals. The successful operation of the licensing system relies amongst other things, upon ensuring that both Officers and Councillors act in a way that is not only fair and impartial but is also clearly seen to be so. Licensing decisions can affect land and property values, and it is important that decisions are made openly, impartially, with sound judgement and for justifiable reasons.

## **5 General Role and Conduct of Councillors in Relation to the Licensing System**

- 5.1 The determination of applications is a quasi-judicial process. The role of Councillors taking licensing decisions has similarities to that of a court of law (and Licensing Justices). Decisions are made after a hearing at which the applicant and objectors are each given an opportunity to be heard and to put their case. The decision reached must be based upon the evidence heard and a consideration of any relevant Council policies and current government advice.
- 5.2 Members should not favour any person, group, company or locality, nor put themselves in a position where they appear to do so, as their overriding duty in making decisions on licensing applications is to do so in a fair and impartial manner, in accordance with the Licensing Objectives, and taking into account any relevant Policy.

## **6 Training**

- 6.1 Members appointed to the Licensing Sub Committee will undertake a period of training in Gambling Act procedures and legislation as specified by the Council, with additional training as necessary.

## **7 Lobbying**

- 7.1 Lobbying is a normal and perfectly proper part of the licensing process provided that it does not affect the impartiality of the decision-making. Those likely to be affected by a licensing application may seek to influence it through an approach to their elected Ward Member or other Councillor, who may make representations to the. However, personal lobbying of the Members of a Panel, by anybody, including other Councillors, that is to determine the application in question is not appropriate, and can lead to the impartiality and integrity of a Councillor being called into question with the risk of findings of maladministration by the Ombudsman and/or the decision of the Panel being challenged by way of Judicial Review.
- 7.2 A Member who has been approached by an applicant or objector seeking to lobby the Member in relation to an application which may come before a Sub Committee on which that Member may sit, should accordingly refer the person lobbying to another Councillor.

- 7.3 Any Member wishing to rely upon any written material or other evidence which they wish to be considered by a Licensing Sub Committee, must provide such evidence in advance to the relevant officers, and within the timescales prescribed in any Regulations or Council procedures.
- 7.4 Members of any Licensing Sub Committee must make decisions based on the facts of the case. Their decisions must not be predetermined or be subject to a party “whip”. The use of the party whip is considered by the Ombudsman as contrary to the former National Code of Conduct amounting to maladministration if it leads to Members making a particular decision without taking into account all relevant matters.
- 7.5 Should an Officer be subject to lobbying by an applicant, objector, or any Councillor, this will be reported to the Panel determining the application.

## **8 Gifts and Hospitality**

- 8.1 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.
- 8.2 All offers or receipt of gifts or hospitality must be reported to the Monitoring Officer and will be recorded in the register of gifts and hospitality.

## **9 Declaration of Interests**

- 9.1 The responsibility for declaring an interest rests with Members. If in doubt, Members should seek advice well in advance of the meeting concerned. Guidance on the declaration of personal and prejudicial interests is contained Code of Conduct for Members. Advice is available from the Monitoring Officer.
- 9.2 Where the Member has a DPI, personal or prejudicial interests in an item on the agenda, such interests must be declared. A Member with a DPI or a prejudicial interest will not be entitled to sit on a Licensing Sub Committee deliberating the application in question. Where a prejudicial interest is declared, the Member concerned is required to leave the meeting, unless the member has made representation in their own right, or, is elected to represent an objector who has made a valid representation. In these circumstances it will not be possible for the Member to take any part in the decision making process.

## **10 Licensing Applications submitted by Councillors and their close associates or Licensing Applications which may have an impact on Councillors, Their families or close associates**

- 10.1 Councillors will wish to have particular regard to the Code of Conduct for Members and co-opted Members e.g. where Members act as agents for people pursuing licensing issues.

- 10.2 Given the Code of Conduct for Members, Councillors who have business or other interests that may bring them into contact with the Council's licensing system on a regular basis should not normally sit on the Licensing and Planning Policy Committee or the Licensing Sub Committees.

## **11 Member and Officer Relations**

- 11.1 Good administration is dependant upon a successful relationship between Councillors and officers which can only be based upon mutual trust and understanding of each others' roles and responsibilities. This relationship, and the trust which underpins it, should not be abused or compromised. Accordingly, Councillors should not attempt in any way to influence the terms of the officers' report or recommendation on any application. Equally, officers should give firm independent advice.

## **12 The role of the Licensing Officer**

- 12.1 Licensing Officers fulfil two roles at a meeting of a Sub Committee. Firstly, a role limited to an administrative one, and secondly, a role limited to consideration of the relevant representations from their knowledge of local licensing policy, guidance, statute and good practice.
- 12.2 Licensing Officers do not make recommendations in reports to a Licensing Sub Committee, in terms of the outcome of the hearing, but will introduce the Report and provide the Committee only with summary information such as the following:
- (i) Summary of the application;
  - (ii) Summary of the representations made;
  - (iii) Summary of how s/he views the provisions of the Licensing Policy Statement;
  - (iv) Guidance of the Secretary of State, and the relevant legislation as relating to the application and any relevant representations;
  - (v) Summary of any pre-application and pre-decision discussions held with the applicant or bodies making representations;
  - (vi) Details of any site visits which took place prior to the application or Committee hearing;
  - (vii) Details of any lobbying activities which have been brought to their notice.



### **13 Period of time in which hearing to be held**

- 13.1 The Authority shall arrange for a Hearing to be scheduled as soon as reasonably practicable following the day after the end of the period for people to make representations. Typically, applications for Premises Licences and Permits will be scheduled for a Hearing no more than 20 working days after the end of the representation period. Typically, 10 days notice will be given to the applicant and objector(s).

### **14 Notice of Hearing**

- 14.1 In the case of a hearing for an Application for a Temporary Use Notice (TUN) which has been subject to representation, the Authority will arrange for a Hearing to take place no later than six weeks from the date the Authority received the TUN. The Authority shall give notice of the hearing no later than ten working days before the day or the first day on which the hearing is to be held.
- 14.2 In the case of a hearing for all applications for Premises Licences, Application for variation, Application for Transfer, Application for reinstatement or Application for Review other cases, the Authority will arrange for a Hearing to take place as soon as reasonably practicable following the day after the end of the period during which representations may be made. The Authority shall give notice of the hearing no later than ten working days before the day or the first day on which the hearing is to be held.

### **15 Action following Receipt of Notice of Hearing**

- 15.1 A party shall give (no later than five working days before the hearing) notice to the Authority stating:
- (a) whether he/she intends to attend or be represented at the hearing
  - (b) whether he/she intends to call any witnesses at the hearing and their names and addresses, and;
  - (c) whether he considers a hearing to be unnecessary.
- 15.2 In the case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the Authority in relation to the application, representations or notice of the party making the request.

## **16 Right to dispense with hearing if all parties agree**

- 16.1 The Authority may dispense with holding a hearing if all persons required by the Act to agree that such a hearing is unnecessary and have done so by giving notice to the Authority that they consider a hearing unnecessary. In such circumstances the Authority must give notice to the parties that the hearing has been dispensed with.

## **17 Withdrawal of Representations**

- 17.1 A party who wishes to withdraw any representations they have made may do so by giving notice to the Authority 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.

## **18 The Committee Procedure**

- 18.1 The Licensing Sub Committee is serviced by a number of officers. These include the Committee Officer and a Legal Advisor who are responsible for ensuring that the correct procedures are followed and that the discussion and the decisions made are properly recorded. An officer from the Grants and Licensing Team acts as a presenting officer, introduces the report and answers Members' questions. In addition, other officers such as Environmental Health Officers may attend to address specific technical matters raised by applications included in the agenda.
- 18.2 The Licensing Sub Committee agenda may comprise a single report, or set of reports concerning specific licensing applications. Each report summarises the main issues raised by the application and details the representations received. Applications to be considered by the Sub Committee will be the subject of a written report from officers.
- 18.3 At the beginning of the hearing, the Chairman shall explain to the parties, the procedure which he/she proposes to follow at the hearing, and shall consider any request made by a party for permission for another person to appear at the hearing.
- 18.4 The Licensing Hearings Panel shall not permit cross-examination unless it considers it is required for it to consider the representations, application or notice.
- 18.5 The Licensing Sub Committee shall allow parties an equal maximum time period in which to support their representation or application.
- 18.6 The Chairman of the Licensing Sub Committee may require any person attending the hearing who, in their opinion, is behaving in a disruptive manner to leave the meeting, and may refuse to permit that person to return, or permit that person to return only on such conditions as the Authority may specify. However, such a person may, before the end of the Hearing, submit to the Authority in writing any information which they would have been entitled to give orally, had they not been required to leave.

## **19 Power to adjourn hearings**

- 19.1 The Authority may adjourn a hearing to a specified date, or arrange for a hearing to be held on specified additional dates where it considers this to be necessary for its consideration of any representations or notice made by a party. The Authority will issue a notice should it decide to use such power.

## **20 Hearing to be public**

- 20.1 The Authority may exclude the public (which may include any person assisting or representing a party) from all or part of the 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.

## **21 Councillor Representations**

- 21.1 Where a Councillor wishes to express a view on an application either in their own right in the capacity as an interested party, or in a specific representative capacity, he/she must do so in accordance with the procedural rules of the Panel, and the Regulations.
- 21.2 To avoid conflicts of interest, councillors shall not normally hear an application if they represent the Ward in which the applicant's premises are situated, or if they live within the vicinity of the premises. A member of the relevant Licensing Sub Committee who represents or lives in the Ward, which may also be affected by a licensing application, may be in a difficult position if it is a controversial application that has generated opposition. Members in such a situation should therefore not publicly support or oppose a particular outcome unless they are prepared to make their own valid representation. The Member would then become ineligible to take part in the deliberative and decision making process of the Licensing Hearings Panel concerned with determining that application.

## **22 Representations and supporting information**

- 22.1 A relevant authority or responsible person may make a representation at any time in writing, up to and including, 20 working days after the day on which the application for a Premises Licence was given to the authority by the applicant.
- 22.2 Anonymous representations **will not** be considered by the Authority.
- 22.3 Letters of support of an application may be made at any time in writing, up to and including, 20 working days after the day on which the application for a Premises Licence was given to the authority by the applicant.
- 22.4 At the hearing a party shall be entitled to call witnesses and address the Sub Committee. The Sub Committee will consider if it wishes to allow a party to question any party to the hearing or any witnesses.
- 22.5 The Sub Committee will disregard any evidence produced by parties or witnesses which is not relevant.

22.6 The Sub Committee will have discretion as to whether they wish to take into account any documentary or other evidence produced by a party in support of their application, representation or notice (as applicable), either before the hearing, or, with the consent of all the other parties, at the hearing.

22.7 Members of the Licensing Sub Committee may ask any question of any party or other person appearing at the hearing.

### **23 Vexatious and frivolous representations, and representations which will not influence the Authority's determination of the application**

23.1 Where the Authority considers that representations are vexatious, frivolous, would certainly not influence the Authority's determination of an application, or are repetitious, the person making the representation will be notified in writing typically, five working days before the Sub Committee is to be held (due to relevant representations being made elsewhere), or, before the determination of the application to which the representation relates.

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

24.1 If a party has informed the Authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

24.2 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, or

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

24.3 Where the Authority holds the hearing in the absence of a party, the authority shall consider at the hearing the application, representations or notice made by that party.

24.4 Where the Authority adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

### **25 The Committee decision making process**

25.1 The Sub Committee shall normally adjourn from the Hearing to deliberate their decision. The Sub Committee may require that the Legal Adviser withdraws with the panel. In such cases, any advice given by the Legal Adviser shall be relayed in open session.

- 25.2 The decision on an application should be taken on all of the relevant factors in the case and in particular the evidence submitted to the Sub Committee. Each application will be treated on its individual merits. The Sub Committee shall have due regard to, and shall normally follow, any relevant Council approved licensing policies and legislation and regulations that are relevant to the application.
- 25.3 Members may add or remove conditions if they are satisfied the imposition of such would go some way to address concerns raised in representations considered valid and pertinent to the application. Due consideration would be given to ensure the imposition or removal of such conditions would be necessary and reasonable.
- 25.4 The Sub Committee will usually make its decision at the conclusion of the Hearing, or within 5 working days following the last day on which then hearing was held.

## **26 Record of proceedings**

- 26.1 Hearings will be recorded in a permanent and intelligible form, and retained for six years from the date of the determination, or, where an appeal is brought against the determination of the Authority, the disposal of the appeal.

## **SECTION 8 - Model Code of Practice in respect of Planning Matters: Probity in Planning**

*Incorporated into the Constitution in December 2007; Revised January 2018*

### **1 Introduction**

- 1.1 Planning matters have a significant impact on our lives and the area in which we live. It is important that the system operates and is seen to operate, in an honest, open and transparent manner.
- 1.2 The purpose of the planning system is to consider development proposals in the light of wider public interests, with the Government requiring a positive approach to be taken towards allowing substantial development. To succeed, the planning system relies on Councillors and Officers acting in a way, which is fair and is clearly seen to be fair. This includes acting in accordance with Planning Law in all instances and paying due regard to national and local policies in addition to all other “material planning considerations.”
- 1.3 This Code of Good Practice has been adapted from national guidelines on probity to take account of the local situation. Two particular areas of the Localism Act 2011 are relevant to this code. Firstly, with regard to pre-determination the Act makes clear that it is proper for councillors to play an active part in local discussions and that they should not be liable to legal challenge as a result, provided they maintain an open mind. Secondly, and related to pre-determination, the Act introduces a new requirement for developers to consult local communities before submitting planning applications for certain developments. This gives Members and local residents a chance to comment when there is still genuine scope to make changes to proposals at both pre-application and post submission stages.

### **2 Status of the Code**

- 2.1 This Planning Code is contained in the Council's Constitution and is complimentary to the Council's Code of Conduct for Members. Members of the Planning Committee should apply both the general Code of Conduct and the Planning Code in dealing with planning issues. This is to help Members maintain the Council's high standards of conduct, avoid placing the Council at risk of legal challenge or a finding of maladministration by the Local Government Ombudsman, and avoid putting an individual member at risk of a complaint. A breach of this Code whilst not usually amounting to a breach of criminal law, may adversely affect the standing of the Council.
- 2.2 The purpose of this Planning Code is to:
  - Set the standards of conduct the Council requires all Members and Officers of the Council to follow when dealing with and determining planning applications including policy, development and enforcement

- Guide the way in which Members and Officers of the Council deal with all planning decisions, supporting their respective roles, and protecting their reputation for probity
  - Set the standard of conduct which other parties to the process can expect from Members and Officers when dealing with planning matters
- 2.3 This Code applies to all Members and Officers when making decisions on planning matters. It has been drawn up to:
- Support Members effective engagement in all aspects of the planning process and, in this context, to fulfil their democratic role
  - 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 well founded
- 2.4 A key purpose of this Code is to help Members of the Planning Committee make formal planning decisions that are safe from legal challenge. It is also intended to be helpful to members of other committees and to ward members in relation to various planning decisions.
- 2.5 The benefit of a detailed Code is that it sets out clear lines of engagement and expectations for each of the parties involved including members of the public and developers.

### **3 General Role and Conduct of Councillors and Officers**

- 3.1 Members and Officers have different but complimentary roles in the planning process. Members of the Planning Committee have different roles to those of other Councillors.
- 3.2 Mutual trust, respect and understanding between Councillors and Officers are key to achieving effective local government. Officers' views, opinions and recommendations will be presented based on their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.
- 3.3 Officers, in their role of advising and assisting Members in their determination of planning matters in the public interest, do not represent either the landowner/applicant or the objector. They will:
- Provide impartial professional advice
  - Seek to ensure consistency of interpretation of national, regional and the Council's planning policies
  - Complete written reports with clear written recommendations and all necessary information for the decision to be made

- 3.4 The Code of Conduct for Officers is set out in full in Part 5 of the Council's Constitution. In addition, many professional staff within the planning service will be members of the Royal Town Institute (RTPI) and are required to comply with the RTPI Code for professional conduct. Planning officers, who are not RTPI members, are also expected to conduct themselves in the same manner.
- 3.5 It is important and best practice that Members recognise that Officers are part of a management structure and any concerns that they may have about the handling of a planning matter should be raised with the department manager. In general, officers and members should adopt a team approach and should recognise and respect each other's different roles.
- 3.6 Members must not put pressure on Officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Councillor from asking questions or submitting views to an officer. These views if submitted in written form will be placed on the planning file and considered together with other material planning considerations.
- 3.7 In reaching a decision, Members must ensure they read, consider and take account of the relevant material considerations connected with the application and should not favour any person, group or locality or put themselves in a position where they may appear to do so.
- 3.8 The Members of the Planning Committee should make all decisions in an open and transparent manner and this should not be compromised in any way. Such actions as messages being passed to Members of the Planning Committee during debate should be avoided as this could give an impression of undue influence from a third party. In an emergency, any communication should go through the Democratic Services Officer.
- 3.9 In order to ensure that decisions are taken on planning grounds and are sound, it is **imperative** that all Members of the Planning Committee read the reports prepared by Officers and familiarise themselves with all relevant National Planning Guidance (including the National Planning Policy Framework), Development Plan policies and other material considerations well in advance of the Planning Committee itself. It is important that Members be **seen** to be meeting this provision of the Code. Information on specific applications will be available on the Council's website via "Public Access".
- 3.10 Councillors who are Members of the Planning Committee are responsible for the determination of planning applications for major and controversial applications. The Planning Committee must assess proposals against national and local planning policy, are restricted to planning considerations, and **cannot** seek to control non-planning issues or duplicate other legislative controls.



- 3.11 Members of the Planning Committee must always approach their decision making with an **open mind**; have regard to **all** material planning considerations and be prepared to change their views if persuaded that they should. Members should remember that planning law requires determination to be based on **planning consideration** and not on any political or other reasons.
- 3.12 If Members do anything, which would show they had closed minds and had predetermined an application, then they should **not take part**. Showing a predisposition towards a particular course of action does not in itself demonstrate bias and prevent Members from taking part in the decision making, however it may well encourage legal challenge.
- 3.13 Members should **not** vote or take part in the meeting's discussion on an item unless they have been present to hear the entire debate, including the officer's introduction to the item.
- 3.14 Members should ensure that if they are proposing, seconding or supporting a decision contrary to an officer's recommendations or the development plan, they **clearly identify** and understand the planning reason leading to this decision. The reason/s must be given **prior** to the vote and be recorded. Members must be aware that the resulting decision may have to be justified by evidence at a planning appeal in the event of challenge.

#### **4 Interests: Registration and Disclosure**

- 4.1 The Law and the Councillor's Code of Conduct set out rules and guidance on declaring their interests. Councillors **must** follow these rules and guidance and review their own situation regularly.
- 4.2 If a Member has a Code of Conduct interest in any matter, the existence and nature of the interest **must be disclosed** at any relevant meeting. This is best done at the beginning of the meeting.
- 4.3 The Members' Code of Conduct states that Members must, within 28 days of taking office as a member or co-opted member, notify the authority's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is that of the Member, their spouse or civil partner, or is the pecuniary interest of somebody with whom a Member is living with as a husband or wife, or as if they were civil partners.
- 4.4 If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.

- 4.5 If a Member does have a pecuniary interest, unless granted a dispensation, the Member **may not** participate in making the decision, either formally or informally. The Member should also avoid giving **any** impression of participation, as it is important to maintain public confidence in the impartiality of Councillors in decision-making. Taking part whilst having a pecuniary interest **is** a criminal offence.
- 4.6 In relation to planning decisions, any interest that does not amount to a pecuniary interest, but which would have a significant impact upon a member's judgement, should be declared by the Member at the meeting. In each case, this would be a matter for the Member's **own** judgement having full regard to the facts.
- 4.7 An example of this type of interest might be in relation to a planning application on a site very near to the member's home (where it may well be advisable for the member not to take part).
- 4.8 Even if a member considers a non-pecuniary interest would not have a significant impact on their judgement, there are likely to be situations where the public expectation would be for the member not to participate. Equally, there may be circumstances in which a member of the public would not regard it necessary for a member to declare an interest or involvement in a matter but for reasons of good practice and transparency, a member chooses to do so, simply to be as open as possible. In these circumstances, the declaration would have no impact on the Member's participation.
- 4.9 Councillors who are unsure whether an interest should be declared or need guidance, should do so before the Planning Meeting, by seeking advice from the Monitoring Officer or Deputy Monitoring Officer.

## **5 Predetermination, Predisposition and Bias**

- 5.1 Members of the Planning Committee must ensure that they do not fetter their ability to take part in the decision making process by making up their minds or clearly giving any appearance that an application or other matter referred to the Planning Committee has already been determined, before the Planning Committee has the opportunity to consider the merits or demerits of an application.
- 5.2 The Planning Committee should when considering an application, take into account **all views** that are expressed in such a way that they are **openly heard** and **fairly** considered in a **balanced** way before the Committee reach a decision.
- 5.3 The courts have sought to distinguish between situations that involve predetermination or bias, on the one hand **and predisposition** on the other.

- 5.4 **Predetermination** is indicative of a “**closed mind**” approach and could leave the committee’s decision open to challenge by Judicial Review. Such “pre-determination” has been held to amount to the “surrender by the decision-maker of its judgement by having a closed mind and failing to apply it to the task”.
- 5.5 Members of the Planning Committee can have a **predisposition** to an initial view, but **must make it clear** that they have an **open mind** and are willing to listen to **all material considerations** presented before deciding on how to vote.
- 5.6 A councillor who has **predetermined** their position should **withdraw** from being part of the decision making body. If the councillor takes part in the decision making process it will put the Council at risk of finding of maladministration and of legal proceedings on the grounds of there being a risk of bias or predetermination or a failure to take into account all of the factors enabling the application to be considered on its merits.
- 5.7 Members and Officers should also avoid the **appearance of bias**, that is, appearing to give undue weight to particular matters on the basis of personal attributes, or social acquaintance, that might influence their conduct generally and ties in with comments made in relation to declarations of interest above. Whilst it might remain possible for a Member to apply an open mind to the matter to be determined in such circumstances Members must avoid giving the impression or appearance that particular personal interests or attributes would lead them to consider aspects of an application more carefully or with more regard than other aspects unaffected by their own character and experience. It should be understood that the perception of justice *“is rooted in confidence, and that confidence is destroyed when right minded people go away thinking that the judge was biased”*.
- 5.8 For Planning Committee Members the aim is that they act, and are seen to act, impartially and honestly by approaching each planning decision fairly between the parties and with an open mind. Should a Member wish to take a particular stance in relation to a development, or feel that it would be difficult to demonstrate that they have followed a consistently fair approach between all parties in a case, then it is perfectly possible for them to decide not to be part of the decision making process on the particular issue or application but to act as a ward member in that instance.
- 5.9 From time to time, members are invited by prospective developers or objectors to attend meetings to discuss proposed development schemes and questions have been asked about the propriety of such attendance. Members and the Council could be challenged where they have expressed their opinion on proposals during or after such meetings, or in advance of Committee consideration.

- 5.10 The administrative system by which planning applications are determined in accordance with the law, and as necessary in a democratic society, would be brought into disrepute if it became evident that decisions favourable to an applicant or an objector could be obtained by lobbying members outside the procedural framework. On the other hand, members may be said to have a duty, particularly as Ward Councillors, to inform themselves of proposals that affect their wards and to be alive to public opinion. Members can play a constructive role in listening to and objectively gathering and reporting such views to the Councillors who will determine the application.
- 5.11 With these points in mind, it is suggested that the following guidelines may be helpful to members when considering whether to accept an invitation to a meeting:
1. Where members accept invitations to meetings from prospective developers or objectors when an application for planning permission has been received, even if the invitation is made to them ostensibly as a Ward Councillor, they should avoid expressing any fixed view on the matter.
  2. Councillors must not make any commitment to determine a matter in a particular way, for any reason .
  3. Ward Councillors (subject to paragraphs 1 and 2 above) should not accept invitations to meetings from prospective developers or objectors unless it is clear to them that the meeting is either a public meeting or one to which residents or other persons with an interest in the potential development have also been invited. If a Ward Councillor attends such a meeting in the belief that others have been invited but finds that no other persons are present, apart from the developer, s/he should decline to take part in any discussion of the scheme. There is no reason to distinguish between meetings in neutral premises and meetings in the prospective developer's or objector's own premises.
  4. There is nothing to stop members inspecting a site from the public highway if they choose to do so in order to better acquaint themselves with the details, but members should be aware of the risk of contact with the applicant or objector and inferences, which might be made. If access to a site is required, a formal site visit should be sought through the planning Case Officer.
  5. There is nothing to stop members responding to invitations to a meeting if properly convened through the Chief Executive or by officers in the planning service to which all relevant members (but not members of the public) have been invited, provided that if the merits and problems of the application are discussed Councillors make it clear that they have no fixed view of the matter at that stage.
- 5.12 It will, of course, remain open for the Council to sanction a departure from these guidelines in special circumstances.

## **6 The Decision Making Process and Decisions Contrary to Officer Recommendations and/or the Local Plan**

- 6.1 All Committee decisions are made by a simple majority.
- 6.2 In discussing, and determining a planning application or other planning matter, Councillors should try to confine their discussion to the policies of the Development Plan, and to those material considerations that should influence their decision. The reasons for making a final decision should be clear, convincing and supported by material considerations and the planning merits.
- 6.3 However, it is acknowledged that deputations by applicants or members of the public may refer to matters that should not properly be part of the reasoning of the members' decision. On such occasions, it may be difficult for members of the Planning Committee to confine their comments to the appropriate planning issues without appearing to disregard expressed concerns. Where it appears that the clarity of the decision-making process may be undermined, the Committee Chairman and officers may give guidance on any elements of the discussions that refer to irrelevant or immaterial considerations, and any elements that should be disregarded by the Committee in formulating its decision. Officers will clarify the weight to be given to the details of reports, or information that comes forward during deputations or in the course of debate.
- 6.4 If Councillors wish to refuse an application against officer advice, to impose additional conditions on a planning permission, or to approve an application contrary to officer recommendation, an officer should explain the implications of such action.
- 6.5 In circumstances where it seems likely that a planning application is likely to be refused against the officer's recommendation, the Chairman should consider whether it would be appropriate to require an adjournment of the meeting or even a deferral of that item to the next Planning Committee meeting to allow further discussions to be had. This is both to ensure that any potential reasons for refusal would be defensible at appeal and to give opportunity for any amendments that may overcome the potential ground for refusal.
- 6.6 Where they do not accord with the officer's recommendation, the Committee's reasons to grant an application or to refuse it or any additional conditions to be applied must be clearly stated by the member making the proposal.
- 6.7 If members cannot give sound and clear-cut reasons for a decision which may override the recommendations of the officers, it is not appropriate to require, or expect, that officers can explain such decisions to applicants, objectors or a planning inspector. When the Committee has made such a decision, the Chairman will allow brief discussion to ensure that officers have understood the intentions and reasons of the Committee. All conditions, including ones that the Committee may wish to impose on a planning permission, must be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

- 6.8 If the report of the Head of Planning recommends approval of a departure from the Local Plan, the full justification for that recommended departure will be included in the report.

## 7 Lobbying

- 7.1 Lobbying is a normal part of the planning process and may not be restricted to members of the Planning Committee. If a Member, who is not on the Planning Committee wishes to support a particular viewpoint then that Member has a right to appear at Planning Committee and seek permission to address the meeting. This approach is recommended to protect the integrity of the members of planning committee against accusations of bias and/or predetermination as the public perception could be that the member added more weight to, or was swayed by views, of a colleague.
- 7.2 Since lobbying can lead to the impartiality and integrity of a Member being called into question it is clear that care should be taken, and all parties involved should exercise common sense. It is therefore important that Members protect their impartiality and integrity in planning matters. Planning Committee Members will not breach the Code by listening to or receiving viewpoints from residents or other interested parties as long as they make it clear that they are keeping an open mind. However expressing an intention to vote one way or another before a Planning Committee meeting would prejudice impartiality.

## 8 Councillor “Call-in” Procedure

- 8.1 Most planning applications are determined by Planning Officers in line with the Council’s Scheme of Delegation. However even when the Scheme of Delegation authorises Officers to determine the application a Planning Committee Member or a member representing the Ward in which development is proposed, may wish for a planning application to be considered by the Planning Committee . In these circumstances, the following rules must be complied with. Failure to do so entitles Officers to refuse to put the application to committee and determine it under delegated authority.
- A “call-in” request must be received within **28 calendar** days following the date of public notification by the Planning Services. This gives the Councillors enough time to read the comments being received from other parties (who have 21 days to comment).
  - The request must be in writing (email is acceptable) to the Case Officer, copied to the Head of Planning and Planning Development Manager asking that the item being referred to, be “called-in” to the Planning Committee,
  - The request must be on **relevant planning grounds** or **merit** intervention to have the application placed before the Planning Committee.

- 8.2 It is not the case that just because a member of the public requests call-in of an application on their behalf, that this should be actioned. It is the responsibility of members to explain to their electorate that a call-in cannot be justified, as there are no planning grounds for doing so.
- 8.3 **All “call-ins” made by Councillors stating material planning grounds and within 28 calendar days will be valid.**
- 8.4 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 Planning, in consultation with the Chairman of Planning and the members concerned.
- 8.5 A Member who has a Disclosable Pecuniary Interest should **NOT** ask for an item to be called in or if there is a risk of the Member being seen as biased: for example if the Member has a very strong connection through a non-pecuniary interest.
- 8.6 Members who have asked for a call-in must ensure that they attend the committee meeting to which the item is being discussed to explain the planning reasons why the application merits consideration by the Planning Committee.

## **9 Planning Applications made by Members and Officers**

- 9.1 When a planning application is submitted by a Member or by a close relative of a Member, the Member will:
- Advise the Monitoring Officer of the application
  - Take no part in the processing and determination of the application
- 9.2 All such applications will be reported to the Planning Committee. The Committee will determine such applications. An Officer will not determine such applications under delegated authority.
- 9.3 The same considerations shall apply to planning applications submitted by Chief Executive, Chief Operating Officer or Heads of Service, including the Head of Planning, Planning Development Manager or Planning Policy Manager.
- 9.4 Officers and Members must not act as agents for people pursuing matters within Epsom & Ewell Borough.

## **10 Late Representations**

- 10.1 Late representations by the applicant or objectors regarding applications being presented to Committee will be considered up until midday on the Monday immediately before the Planning Committee meeting (Thursday) and will be summarised by the Case Officer and sent to the Planning Committee Members at least one day before the meeting on the Thursday.

- 10.2 Comments or any other information received after the deadline will only be taken into consideration in exceptional circumstances at the discretion of the Head of Planning. This process ensures the Planning Committee Members have sufficient time to read any additional papers.
- 10.3 **No** material will be handed out at committee by anyone other than the Officers presenting the item before committee.

## **11 Public Speaking at Planning Committee**

- 11.1 Certain members of the public or organisations that have a planning related interest or could be affected directly by the matter under consideration will be entitled to speak at the Planning Committee.
- 11.2 These individuals/organisations fall into the following categories:
- Ward councillors who are not members of the planning committee
  - applicants or their agents
  - local groups
  - neighbouring occupiers or
  - owners of any premises which is the subject of an enforcement report
- and may either support or oppose the application.
- 11.3 An individual or representative of a local group/organisation who wishes to speak at a Planning Committee must register their wish to do so between 6pm and 7pm on the evening of the meeting at the Town Hall reception desk.
- 11.4 Normally, in addition to the applicant/agent, only one member of the public may speak for or against a single application. Registration will normally be on a first come first served basis but an individual may choose to waive this right in favour of an individual who attempted to register at a later time. Alternatively, several members of the public may appoint one person to speak on their behalf provided they can reach agreement to this amongst themselves.
- 11.5 A speaker shall have a maximum of three minutes to address the Committee and must confine their remarks to the application upon which they requested to speak. The applicant/agent shall be given an amount of time equal to the amount of time allocated to the all the objectors. The address shall be in the form of a statement, not attempts to question the applicant or other persons but may address issues raised by other speakers.
- 11.6 Speakers should only raise issues concerning planning matters such as;



- appearance and character of the application
- traffic issues, highway safety and parking
- layout and density of buildings
- loss of light overshadowing and loss of privacy
- noise, disturbance and other loss of privacy
- other relevant planning considerations

11.7 There will be no opportunity for displaying any materials, such as maps, photographs or circulate any other materials or ask any questions of anyone at the meeting.

11.8 If the Chair considers that any remarks made are defamatory, no further representation will be allowed. Individuals or organisations will be invited to address the Committee following the presentation of the item by the Officer. The order of speakers will be:

- Ward councillors wishing to speak
- Objector
- Supporter
- Applicant or their agent

## **12 Monitoring and Review of Decisions**

12.1 Planning Committee Members should play an active part in regularly reviewing the outcome of planning decisions so that lessons can be learned and the future consideration and determination of planning applications can be improved as part of a broader commitment to continuous improvement.

12.2 Arrangements will be made for Members to visit a sample of implemented planning permissions, so that a regular review of the quality of planning decisions can be undertaken.

12.3 The outcome of the review will be considered by the Planning Committee and may lead to the possible amendments to existing policies or practices

## **13 Training**

13.1 No Member (or Member substituting on a Planning Committee) may attend a Planning Committee meeting without first having received appropriate mandatory training as set out below.

- 13.2 The validity of this training will expire if the Member has not attended a meeting of the Planning Committee within 12 months of receiving it, or has had a gap in membership from the Committee of more than 6 months. Where the validity of the training has expired, the Member may not sit on the Planning Committee until they have received further training.
- 13.3 Given the complex legislative framework for determining planning applications and the constant reforms and changes within the planning system, the Head of Planning will provide a Planning Committee Training Programme to include:
- An annual training session that will provide an overview of the key role of planning and the role Members play in the planning process. This training will usually be held once the membership of the Planning Committee has been confirmed at Annual Council and should be attended by both new and continuing Members of the Committee. However, all members of the Council will be encouraged to attend to help them understand planning issues. If Members are appointed to the Planning Committee after the training has been held and have not received the necessary training, or act as a substitute for a Planning Committee Member, they will receive separate training.
  - A six month mandatory refresher session
  - Further training sessions as necessary on new Council and Central Government policy and legislation or other planning issues that are requested by Members or Officers. Again, all members of the Council will be encouraged to attend such sessions.
- 13.4 It is expected that Members will be available to attend training sessions and it will be the responsibility of each Member to ensure they have attended at least the annual training and the six-month refresher to enable them to sit on the Planning Committee. Democratic Services will maintain a register of Members who have received this training.

## **14 Complaints**

- 14.1 A complaint that a Member or Officer has breached this Code should be made in writing to the Monitoring Officer for investigation and determination
- 14.2 There is a specific right of appeal for applicants who are not satisfied with a planning decision. In all other cases, the Head of Planning will investigate a complaint made in writing regarding the determination of a planning application or a related planning matter and would deal with it in accordance with the Council's complaints procedure.
- 14.3 In order that planning procedures are undertaken properly and that any complaints can be fully investigated, record keeping will be complete and accurate. Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings, significant telephone conversations and any declarations of interest by Councillors.

- 14.4 The same principles of good record keeping will be observed in relation to all enforcement and planning policy matters. The Planning Development Manager will regularly monitor record keeping.
- 14.5 A complaint may be made to the Local Government Ombudsman in the event that the complainant was not satisfied with the result of the investigation under the Council's complaints procedure. This must be done directly to the Local Government Ombudsman.

## **15 Site Visits**

- 15.1 Members and Officers must remember, in conducting a site visit anything said or done by them should be restricted to relevant planning considerations and should remain open minded.
- 15.2 The purpose of an organised Council site visit is for Councillors to gain knowledge of the development proposal, the application site and its relationship to adjacent sites. The potential benefit of attending the site should be sufficient to justify the administrative expense and any consequential delay to determining the application.
- 15.3 The decision to hold a site visit prior to the Committee meeting is to be made by the Head of Planning in consultation with Chairman.
- 15.4 The purposes of a formal site visit prior to the Committee meeting are:
- to view the setting of the application,
  - to consider any other matters seen on site which may be material to consideration of the application, and
  - to find facts, especially when the application site is not visible from public land.
- 15.5 During a site visit members and officers should avoid any appearance of impropriety, and must not accept gifts or hospitality. Comments should be restricted to planning matters, and questions should be put through the planning officers attending the site visit. Officers and members must refrain from making comments that might be construed as supporting or opposing a particular view, and from making any personal comments.
- 15.6 The purpose of a formal site visit is not to receive or allow representations to be made outside the formal Committee meeting. If, on a site visit, Members and Officers are approached by persons wishing to speak about the application, Officers will explain that any representations may be made to the Committee at the meeting, and explain the procedure.

- 15.7 Site visits should be requested by Members prior to the application being reported to Committee. Councillors should only request a site visit when the application has reached the determination stage if they consider it essential to clarify an issue that cannot be understood without such a visit, and which could not have been considered earlier. The Committee may decide to visit a site because particular factors to be seen on site are significant in terms of the weight to be afforded to them in determining the application and because, following discussion in Committee, members have reduced confidence that such factors can be fairly considered in the absence of a site visit to assess such details. In proposing a site visit, the member who wishes the Committee to have additional opportunity to do so should specify the factors to be noted if the site visit is agreed.
- 15.8 Members with a pecuniary interest in a planning application should not make representations seeking a site visit in respect of an application. Members with a pecuniary interest in a particular application or agenda item must not attend any related site visit.

## **16 Development proposed by the Council**

- 16.1 Parliament has decided that local planning authorities are, in the majority of circumstances, the appropriate body for determining planning applications affecting the area, including where the Council itself submits a planning application. There are separate statutory requirements for the Council in determining applications to develop its own land, or to develop it jointly with another body.
- 16.2 Members and Officers involved in reaching a determination of the application should treat proposals for the Council's own development (or development involving the Council and another party) in the same way as those by private developers. This means that not all applications on Council owned land need to be considered by Committee. However, the planning decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted. It is important that the Council be seen to be treating such applications on an equal footing with all other applications, as well as actually doing so.

## **17 Member/Officer Relations and Planning Decisions**

- 17.1 The Head of Planning or the Planning Development Manager will always attend meetings of the Planning Committee to ensure that procedures are properly followed and planning issues properly addressed.
- 17.2 Other senior officers with appropriate professional and technical experience will also be present when an application has aspects relating to their professional expertise. Where the Council's professional experts, such as environmental health officers or highway engineers, attend Committee to ensure that appropriate advice can be given and discussed with their assistance, Members must give due weight to such advice. It is the obligation of such officers to give considered and independent advice for the benefit of the Council.

## **18 Review of Protocol**

18.1 This Code will be reviewed as necessary and at least every four years to take account of:

- new planning legislation
- changes to national codes of conduct
- emerging examples of good practice

## **SECTION 9 - Whistleblowing Policy**

*Issued August 2003; Revised May 2019*

Whistleblowing or Confidential Reporting is a way for employees of an organisation to raise reasonably and honestly held concerns that they have about serious matters that could put the council and/or the public at risk. Examples are crime, fraud, the giving or receiving of bribes.

### **1 Introduction**

- 1.1 The Council supports whistleblowing and this policy is drafted to take account of the requirements of the Public Interest Disclosure Act (1998). If you raise a genuine concern in good faith, this policy means you will not be at risk of losing your job or suffering from any retribution, even if your concerns are not substantiated by an investigation. If however you do not make an allegation in good faith or you make an allegation for personal gain, disciplinary action may be taken against you.
- 1.2 The Council wishes to ensure that its money is spent appropriately on services for the local community. Any loss of funds as a result of fraud or corruption can reduce the amount of money available for services or lead to higher Council Tax.
- 1.3 Furthermore, the Council is committed to the highest standards of openness, probity and accountability. In line with that commitment we expect you, as an employee, and others we deal with, who have concerns, to come forward and voice them.
- 1.4 This policy applies to all employees and those contractors working for the Council on Council premises for example agency staff, builders, suppliers of services etc. It also covers suppliers and those providing services under a contract.
- 1.5 This Policy is designed to tackle potentially serious allegations and enables you, as an employee or contractor to raise genuine concerns about serious malpractice.
- 1.6 The Council will investigate all complaints received through the Whistleblowing process to protect its interests and that of local residents but untrue malicious allegations may be dealt with severely. For example those that has a public interest aspect to them or makes and employees feel uncomfortable against expected behaviour, improper conduct or falls below expected standards.

### **2 Aims and Scope of Policy**

- 2.1 This policy aims to:-
  - Make you feel able to raise a concern in confidence and without risk to your own job;
  - Provide avenues to raise concerns and receive feedback;

- Provide a guarantee that you will receive a response to your concerns and ensure that you are aware of the processes to follow if you are not satisfied;
  - Reassure you that you will be protected from possible reprisals for victimisation;
  - Provide other sources of reference for advice.
- 2.2 There are existing procedures in place if you have a grievance relating to your own employment or if you consider that you are harassed due to protected characteristics such as race, sex or disability or if you are concerned about health and safety issues. These are available on E-Hub under HR.
- 2.3 This Policy is intended to cover concerns that fall outside the scope of other procedures. These include:-
- conduct which is an offence or a breach of law
  - disclosures related to miscarriages of justice
  - health and safety risks including risks to the public as well as other employees,
  - damage to the environment
  - the unauthorised use of public funds,
  - fraud and corruption;
  - sexual or physical abuse of clients
  - any attempt to prevent disclosure of any of the above, or
  - Other conduct which gives you cause for concern.
- 2.4 This policy supplements and does not replace the Council's complaints procedure, or grievance procedures and other procedures in place to deal with harassment and with health and safety.

### **3 Safeguards**

- 3.1 The Council is committed to good practice and high standards and aims to be supportive of its employees. The Council recognises that the decision to report a concern can be a difficult one to make particularly when colleagues are involved or if there is a fear of reprisals. The Council will not tolerate any attempt on the part of an employee, councillor or contractor to apply any pressure, sanction, harassment or victimisation. The Council will take the necessary action required, including disciplinary action against an employee, action for breach of a contract against a contractor or report a Member to the Monitoring Officer for appropriate action.
- 3.2 Concerns about child or adult safeguarding issues can be referred through the Council's Safeguarding Policy available on the Council's intranet or to the Surrey Agency Safeguarding Hub (MASH) on 0300 470 9100 or if an case of immediate danger direct to the Police.

## **4 Malicious Allegations**

- 4.1 The Council will take all allegations very seriously and, if you are employed by the Council, may take action against you if you deliberately make untrue malicious allegations.
- 4.2 If you make an allegation in good faith but it is not proven by investigation no action will be taken against you.

## **5 Guidance on Making a Complaint**

- 5.1 In order to deal with an allegation the earlier you raise your suspicions, the easier it is to take action.
- 5.2 As a first step, you should raise concerns with your immediate Manager or Head of Service. Who you chose to raise your concerns with may depend on the seriousness and sensitivity of the issues involved and who is suspected of malpractice. For example if you believe that your manager is involved you should approach your Head of Service or one of the Designated Whistleblowing Officers.
- 5.3 Your Manager or Head of Service receiving notification of a concern under this policy must inform one of the Designated Whistleblowing Officers providing a copy of all relevant paperwork. The Council has four designated Whistleblowing Officers, who are the Chief Finance Officer, the Chief Legal Officer, Head of HR and OD and the Head of Policy, Performance & Governance (the names of the individuals who currently hold the designated posts are set out at the end of this policy). If the matter relates to financial irregularities or failures of financial control, the Chief Finance Officer must be informed. Further guidance on dealing with such matters can be found in the Fraud Response Plan available from the Head of Policy, Performance & Governance.
- 5.4 When making a complaint you should provide accurate details such as background, names and, where possible, documentary evidence.
- 5.5 You may raise your concerns verbally or in writing. However, it is preferable for complaints to be raised in writing to provide more accurate details.
- 5.6 Your complaint will be treated in confidence and you should also treat the matter as confidential whilst your complaint is on-going.
- 5.7 If you are a contractor working for the Council, the procedures for whistleblowing are similar but in the first instance, you should normally raise your concerns with your own manager who will then contact the Council's lead officer dealing with the particular contract. If you do not have a line manager, you should contact the Council's lead officer dealing with the particular contract or, alternatively, one of the Council's Designated Whistleblowing Officers.



- 5.8 If you are a Council employee you can obtain advice and guidance on how to raise matters of concern from the Head of HR & Organisational Development. If you are a contractor working for the Council, agency staff or a supplier, you can obtain confidential, independent advice from the charity Public Concern at Work (the contact details for this organisation are set out at the end of this policy document).
- 5.9 During initial investigations it may be necessary to conduct an interview to ascertain facts. You can invite your trade union or professional association representative or a work colleague to be present during any interviews in connection with the concerns you have raised.

## **6 Guidance on the investigation process and feedback**

- 6.1 The action taken will be dependent on the nature of your allegation. In the first instance, the matter will be investigated internally, by or on behalf of the Designated Whistleblowing Officer, to establish the facts. Should it relate to a financial matter then the Fraud Response Plan may be implemented.
- 6.2 In order to protect you, and those about whom concerns are raised, initial enquiries will be made to decide whether an investigation is warranted and if so, what form it should take. If you have raised concerns or made an allegation which is the subject of its own policies and procedures, such as discrimination for example, such matters will normally be referred for consideration under the relevant policies and procedures rather than dealt with by the Designated Whistleblowing Officer. It may be possible at this stage to agree action without the need for further investigation. If urgent action is required this will be taken before any investigation is concluded.
- 6.3 The Designated Whistleblowing Officer dealing with the case will endeavour to acknowledge your complaint within 5 working days. Then, depending on the circumstances of your complaint, will formally respond in more detail within 21 working days or once the investigation is completed.
- 6.4 The initial written response will
- Acknowledge that your complaint has been received;
  - Indicate how the Council proposes to deal with the matter;
  - Give an indication or estimate of how long it will take to provide a final report;
  - Outline what initial enquires have been made;
  - Supply you with information of staff support mechanisms.
- 6.5 Further action will depend on the results but the case may be: -
- Passed to an appointed independent person or body such as internal audit for further investigation, in line with the Council's Anti Fraud & Anti Corruption Strategy
  - Referred to Head of HR & Organisational Development for disciplinary action

- Referred to External Audit
- Referred to the Police

6.6 The amount of contact the Designated Whistleblowing Officer dealing with the allegation will have with you will depend upon the nature of the matters you raised. It may or may not be necessary to seek further information from you during the course of an investigation.

6.7 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcomes of any investigation. However feedback may be limited during an investigation.

## **7 How the matter can be taken further**

7.1 This policy is intended to provide you with an avenue within the Council to raise concerns and has been written to take account of the Council duties and hopes that you will be satisfied with any action taken. If you are not satisfied with the outcome of your confidential report you can write to the Chief Executive and ask for the outcome to be reviewed. If you remain dissatisfied, you feel it is right to take the matter outside of the Council. In this case, you may wish to rely on your rights under the Public Disclosure Act 1998.

7.2 This Act protects you if you make certain disclosures regarding information in the public interest and those disclosures are made in accordance with the provisions of the Act. The provisions are quite complex and include a list of prescribed persons outside of the Council who can be contacted in certain circumstances. If in doubt, you should seek advice on the provisions of the Act. If you do take the matter outside the Council, you should ensure that you do not disclose information where you owe a duty of confidentiality as by doing so you may commit an offence by making such a disclosure. Where you are in any doubt you should obtain your own legal advice.

## **8 The Law**

8.1 The Employment Rights Act 1996 has been amended to incorporate the provisions of the Public Disclosure Act 1998. The Employment Rights Act 1996 already protected employees who took action over, or raised concerns about, health and safety at work. For the avoidance of doubt, financial issues are covered by Section 151 Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, The Local Government and Housing Act 1989 and Accounts and Audit Regulations 20015

## **9 Contact Details**

9.1 The Council has four Designated Whistleblowing Officers, who are the:

- Chief Finance Officer: Lee Duffy, Tel 01372 732210, or e-mail: [lduffy@epsom-ewell.gov.uk](mailto:lduffy@epsom-ewell.gov.uk))

- Chief Legal Officer (& Monitoring Officer) : Amardip Healy , Tel 01372 732148, or e-mail: ahealy@epsom-ewell.gov.uk)
- Head of HR & OD: Shona Mason; Tel 01372 732127 or email smason@epsom-ewell.gov.uk
- Head of Policy, Performance & Governance: Gillian McTaggart; Tel 01372732224 or email gmctaggart@epsom-ewell.gov.uk

9.2 Alternatively, you may wish to speak to one of the following individuals:

- Chief Executive, (Kathryn Beldon , Tel 01372 732104, or e mail: kbeldon@epsom-ewell.gov.uk)
- Internal Audit which is provided by Southern Internal Audit Partnership (SIAP) The Head of Southern Internal Audit Partnership is Neil Pitman, Tel 01962 845139: or email neil.pitman@hants.gov.uk
- A local Councillor – Residents of the Borough of Epsom and Ewell can contact their local Councillor. A list of local Councillors is available by contacting the Council (01372 732000) or from the Council’s web page

## 10 External Contact Details

10.1 If you are relying on your rights under the Public Disclosure Act 1998, you may wish to contact:

- External Audit, who is provided by Grant Thornton who can be contacted through our Engagement Lead, Sarah Ironmonger Tel 01293 554145 or by email sarah.l.ironmonger@uk.gt.com or their website www.grant-thornton.Thornton UK LLP),
- Your Trade Union or staff representative
- Public Concern at Work – www.pcaw.co.uk. Tel 0207 404 6609
- The Police

## 11 Links with other Policies

11.1 In investigating financial irregularities, this policy should be read in conjunction with the Anti Fraud and Anti Corruption Strategy, which sets out how financial irregularities should be investigated. This policy does not replace the corporate complaints procedures. Other forms of complaints are dealt with under separate Council Dispute Resolution Procedures such as Bullying & Harassment, Disciplinary and Capability Procedures.

11.2 In addition, reference may also be made to the Council’s Policies on; Anti-Money Laundering, Anti Bribery, and Conflict of Interest.

## SECTION 10 - Recording, Photography and Use of Social Media Protocol and Guidance

Issued: December 2018

### 1 Introduction

The Local Audit and Accountability Act 2014 and the “Openness of Local Government Bodies Regulations 2014” set out the statutory provisions that permit the recording of proceedings by any person attending the meeting.

Epsom and Ewell Borough Council recognises that it operates in a modern digital world where the use of filming and communication methods such as tweeting and blogging is commonplace. The Council has responded to the Government’s requirements to increase citizens’ rights to attend and report on meetings by adopting a “Standing Order” and this Protocol.

To ensure the work of a meeting is not interrupted, and to safeguard the rights of others, any member of the public or of the media wishing to photograph and / or audio or visually record a meeting will be asked to sign the recording and filming protocol.

### 2 Procedure Prior to the Meeting for those Wishing to Record or Photograph a Meeting

Requests to take photographs or undertake audio or visual recordings of meetings open to the public, by members of the public or by the media, should wherever possible be made to **the Democratic Services Officer listed as a contact for that committee on the agenda for each meeting** at least two working days before the meeting.

The request should include the following information, as this will assist the Council in preparing for the meeting to avoid any disruption to the proceedings:

1	the name, organisation (if applicable) and contact details of the person making the request
2	which meeting do you wish to record
3	what equipment will you be (e.g. camera/audio recorder/video camera)
4	What will the photographs, or audio / visual recording will be used for and / or where the information is to be published

All recording and filming of Council meetings are subject to the following terms:

1	Any photography or audio / visual recording must take place from a fixed position in the meeting room approved by the Chairman so as to minimise disruption to the proceedings;
2	The use of flash photography or additional lighting will only be permitted for a limited period during the meeting at a point in the proceedings agreed in advance with the Mayor or Chairman, so as to minimise disruption to the proceedings;
3	If the Mayor or Chairman feels that any photography, audio or visual recording is disrupting the meeting in any way or any pre-meeting agreement has been breached then the operator of the equipment will be required to stop;
4	If during the meeting a motion is passed to exclude the press and public, because confidential or exempt information is likely to be disclosed, then all rights to record the meeting are removed and the operator of the equipment will be required to stop recording and /or photography;
5	If the Mayor or Chairman adjourns the meeting, then the operator of the equipment should stop any recording or photography at the point at which the meeting is adjourned;
6	Those making audio or visual recordings must comply with any request made by the Mayor or Chairman regarding respecting the public's right to privacy;
7	People seated in the public gallery / seating area should not be photographed, filmed or recorded without the consent of the individuals concerned. This also applies to those individuals who may ask a public question, present a petition or make a representation at a Council meeting open to the public and who are seated in a "public seating area";
8	Use must not be made of an image or recording if consent is refused by an individual;
9	Photographs, audio, and visual recordings should not be edited in a way that could lead to misinterpretation of the proceedings. This includes refraining from editing the views being recorded in a way that may ridicule or show lack of respect.

It should be noted that failure to comply with this Protocol might lead to the refusal of any future requests to photograph or audio or visually record any future Council meetings in view of the risk of future disruption to proceedings.

If a request has been received to take photographs, or to audio or visually record a particular meeting, notices to this effect may be displayed in the relevant meeting room.

To assist the public, the Mayor or Chairman will, in accordance with the Council's Rules of Procedure (FCR 7.10 or CPR 18.5), announce the meeting will be photographed and /or recorded or filmed.

The Council may, on occasion, audio record meetings for minuting purposes only. The relevant Chair will make an announcement to this effect and these recordings will not be made available to anyone outside the Council.

### **3 Audio and Visual Recording – the Public Rights**

If as a member of the public you do not wish to be photographed, filmed or recorded please inform the Committee Officer in attendance at the meeting, or the Mayor or Chairman of the relevant committee if notice that a request to photograph / record has been received is given.

### **4 Procedure at the Meeting**

Equipment must be set up before the meeting starts. The use of flash photography or additional lighting will only be permitted for a limited period during the meeting at a point in the proceedings agreed in advance with the Mayor or Chairman. This will be communicated to all relevant parties. This is to minimise disruption to the proceedings.

If the Mayor or Chairman feels the photography/audio / visual recording is disrupting the proceedings, the operator of the equipment will be required to stop.

If use continues, the Mayor or Chairman will ask the person to leave the meeting. If the person refuses to leave then the Mayor or Chairman may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption.

Anyone asked to leave a meeting because they have refused to comply with the Mayor or Chairman's requests may be refused permission to photograph, record or film at future Epsom and Ewell Borough Council meetings, to minimise the risk of future disruption to the proceedings.

If during the meeting a motion is passed to exclude the press and public, because confidential or exempt information is likely to be disclosed, then all rights to record the meeting are removed.

If a meeting for which agreement is given to record or photograph is adjourned by the Mayor or Chairman then any recording or photography should stop at the point at which the meeting is adjourned.

### **5 Social Media**

There are no restrictions placed on anyone at the meeting using Twitter, blogs, Facebook or similar "social media" provided that the Mayor or Chairman does not consider their actions are disrupting the proceedings of the meeting.

If the Mayor or Chairman feels the use of social media is at the time disrupting the proceedings the Councillor, member of the public or media representative may be required to stop.

If use continues, the Mayor or Chairman will ask the person to leave the meeting. If the person refuses to leave then the Mayor or Chairman may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption.

Councillors and members of the public are reminded that there are laws which apply to social media use – including the law of defamation and the law on public order offences.

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# **PART 6**

# **COUNCILLORS' ALLOWANCES SCHEME**

May 2021/May 2022	Number of Members Allowance payable to	Amount
<b>Basic Allowance</b>	38	<b>£3,826.00</b>
<b>Special Responsibility Allowances</b>		
<b>Committee Chairmen/Chairs</b>		
Strategy and Resources	1	<b>100%</b> of Basic Allowance
Environment and Safe Communities	1	<b>70%</b> of Basic Allowance
Community and Wellbeing	1	<b>70%</b> of Basic Allowance
Licensing and Planning Policy	1	<b>70%</b> of Basic Allowance
Planning	1	<b>100%</b> of Basic Allowance
Audit, Crime & Disorder and Scrutiny	1	<b>70%</b> of Basic Allowance
Standards Committee	1	<b>10%</b> of Basic Allowance
<b>Panel Chairmen/Chairs</b>		
Financial Policy	1	<b>30%</b> of Basic Allowance
Human Resources	1	<b>30%</b> of Basic Allowance
Health Liaison	1	<b>30%</b> of Basic Allowance
<b>Other Chairmen</b>		
Epsom and Walton Downs Conservators	1	<b>30%</b> of Basic Allowance
<b>Vice Chairmen/Chairs</b>		
Strategy and Resources	1	<b>50%</b> of Basic Allowance
Environment and Safe Communities	1	<b>35%</b> of Basic Allowance
Community and Wellbeing	1	<b>35%</b> of Basic Allowance
Licensing and Planning Policy	1	<b>35%</b> of Basic Allowance
Planning	1	<b>50%</b> of Basic Allowance
Audit, Crime & Disorder and Scrutiny	1	<b>35%</b> of Basic Allowance
Standards Committee	1	<b>5%</b> of Basic Allowance
<b>Planning Committee Membership</b>		
Membership of Planning Committee	11 (Chair & Vice receive separate Allowance)	<b>10%</b> of Basic Allowance

Other posts		
Majority Group Leader	1	100% of Basic Allowance
Minority Group Leader	2	£200 + £50 per group member

## Notes

1. Allowances paid in 12 monthly instalments June – May each year.
2. Councillors are entitled to claim more than one Special Responsibility Allowance if they qualify for more than one such allowance.
3. The Special Responsibility Allowance for Vice Chairmen/Chairs is 50% of what their respective Chairmen/Chair receives. This is detailed in the scheme above.
4. A Vice Chairman/Chair may receive payment at the same rate as the Chairman/Chair if required to stand in for him/her during an absence of a month or more for the period of his her absence.
5. Travel expenses and subsistence will only be reimbursed for **pre-approved attendance** at conferences and seminars or other official Council business outside the Borough where reimbursement will be at the officer rate up to a maximum allowed under the Inland Revenue scheme. All other travel, subsistence and necessary costs are covered by the scheme of allowances.
6. A payment equivalent to the actual cost incurred may be made to Councillors to cover child-care or dependent care subject to the provision of receipts and filling in of a claim form, in respect of childcare and other dependent care respectively with the exception that claims will not be payable in respect of carers in the same household. In addition, the rate payable to carers who are not in the same household as, but are family members of, the Member, should be at the appropriate rate of the National Living Wage.
7. Allowances to be varied in May each year following the Annual Council Meeting in accordance with changes to the Consumer Prices Index (September CPI).

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# **PART 7**

# **MANAGEMENT STRUCTURE**

