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## CHICHESTER DISTRICT COUNCIL THE CONSTITUTION

Revisions	Summary of Changes
April 2024	<ul style="list-style-type: none"><li>• Part 3 – Responsibility of Functions – Updated value of lease delegation</li><li>• Part 6 – Members Allowances Scheme – Updated reference to Independent Persons payment</li></ul>
April 2024	<ul style="list-style-type: none"><li>• Part 6 – Members Allowances Scheme – Updated Mileage Rate</li></ul>
March 2024	<ul style="list-style-type: none"><li>• Part 5 – Petition Scheme – Contact Details Update</li></ul>
June 2023	<ul style="list-style-type: none"><li>• Part 4 – Rules of Procedure – Numbering Correction</li></ul>
May 2023	<ul style="list-style-type: none"><li>• Part 6 – Members Allowances Scheme – Update Subsistence Allowances.</li></ul>
April 2023	<ul style="list-style-type: none"><li>• Part 6 – Members Allowances Scheme – Updated Scheme following changes agreed at Full Council in March 2023.</li></ul>
August 2022	<ul style="list-style-type: none"><li>• Part 6 – Members Allowance Scheme – Updated Mileage Rate in line with staff increase rate and job title amendment.</li></ul>

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# **PART 1 – SUMMARY AND EXPLANATION**

## **The Council's Constitution**

Chichester District Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these decisions are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others were chosen by the Council.

The Constitution is divided into 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 later in the document.

## **What's in the Constitution?**

Article 1 of the Constitution commits the Council to efficient, transparent and accountable decision making. Articles 2 to 14 explain the rights of residents and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Residents and the Council (Article 3)
- The Full Council (Article 4)
- Chairing the Council (Article 5)
- Overview and Scrutiny Committee (Article 6)
- The Cabinet (Article 7)
- Regulatory and other committees (Article 8)
- Joint arrangements (Article 9)
- Officers (Article 10)
- Decision making (Article 11)
- Finance and contracts (Article 12)
- Review and revision of the Constitution (Article 13)
- Suspension, interpretation and publication of the Constitution (Article 14)

## **How the Council operates**

The Council is composed of 36 councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to follow a code of conduct to ensure high standards in the way they undertake their duties. Training and advice for them on the Members' Code of Conduct is made available.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year. The Council elects the Leader of the Council and appoints the membership of committees, except the Cabinet. The Cabinet is made up of the Leader of the Council and between 2 and 9 other councillors appointed

by the Leader. The Council has ultimate responsibility for reviewing performance of the Cabinet and other committees. In addition the public may ask questions at Council meetings.

### **How decisions are made**

The Cabinet is the part of the Council which is responsible for operational decisions. When major decisions ('key decisions') are to be discussed or made, these are published in the Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed at a meeting of the Cabinet, this will be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

### **Overview and scrutiny**

The Council has appointed an Overview and Scrutiny committee to undertake the following functions:

- a) Policy development and review
- b) Publicly holding the Cabinet to account
- c) Reviewing the deliverability of local services whether provided by the Council or external organisations
- d) Examining matters of wider local concern.

### **Non-executive Committees**

Non-executive Committees carry out a number of regulatory functions mostly where a matter may not be decided by the Cabinet. Although these committees are described as non-executive they do take decisions. The Regulatory Committees are the Planning Committee, the Alcohol and Entertainment Licensing Committee and the General Licensing Committee. There are also a Corporate Governance and Audit Committee and a Standards Committee, which promotes and maintains high standards of conduct.

### **Forums**

In order to give local residents a greater say in council affairs, the Council may set up forums on either a standing or a task and finish basis.

### **The Council's Officers**

The Council's employees (referred to as 'officers') give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationships between officers and members of the council.

## Residents' Rights

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

Where members of the public use specific Council services, for example those relating to planning applications or housing benefit, they have additional rights. These are not covered in this Constitution.

Residents have the right to:

- vote at local elections if they are registered
- contact their local councillor about any matters of concern to them
- obtain a copy of the Constitution
- attend meetings of the Council and its committees except where, for example, personal, confidential or exempt matters are being discussed
- petition to request a referendum on a mayoral form of executive
- participate in the Council's question time scheme
- find out, from the forward plan, what major decisions are to be discussed by the Cabinet and when
- attend meetings of the Cabinet where key decisions are being discussed or decided in public
- see public reports and background papers, and any record of decisions made by the Council and executive
- complain to the Council about the standard of service, the actions or lack of action by officers
- complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they should normally do this only after using the Council's own complaints process
- complain to the Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct
- inspect the Council's accounts and make their views known to the external auditor, and
- inspect a wide range of documents under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004

The Council welcomes participation by its residents in its work. For further information on your rights as a resident, please contact the Public Relations Manager at East Pallant House, 1 East Pallant, Chichester or telephone 01243 534537.

The Council's email address is [contact@chichester.gov.uk](mailto:contact@chichester.gov.uk).

The Council's website address is [www.chichester.gov.uk](http://www.chichester.gov.uk) where a range of information and access to some services can be obtained.

The rights of the public to attend meetings of the Council, the committees and the Cabinet, to inspect their agendas, reports and minutes, are set out in Part 4.2 of the Constitution under the Access to Information Procedure Rules.

## **PART 2 – ARTICLES OF THE CONSTITUTION**

### **Article 1 – The Constitution**

#### **1.01 Powers of the Council**

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

#### **1.02 The Constitution**

This Constitution, and all its appendices, is the Constitution of the Chichester District Council.

#### **1.03 Purpose of the Constitution**

The purpose of the Constitution is to:

1. explain clearly how the Council works
2. show how the Council has organised itself to provide clear leadership to the community in partnership with residents of the district, businesses and other organisations
3. describe the separate roles of the Council, the Cabinet, the Overview and Scrutiny Committee and other committees
4. enable the Cabinet to act quickly and effectively within the Council's approved policy framework and budget
5. support the active involvement of members of the public in the process of local authority decision-making
6. help councillors represent their constituents more effectively, and describe their roles and how they engage with the local community
7. enable decisions to be taken efficiently, effectively and transparently
8. create a powerful and effective means of holding decision-makers to public account
9. ensure that no one will review or scrutinise a decision in which they were directly involved
10. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions and

11. provide a means of improving the delivery of services to the community.

The Constitution recognises the Council's role as a Community Leader and its strategic responsibility for community planning and for the efficient and effective delivery of services. Its overall objective is, therefore, to organize all of its activities in such a way as to ensure that they demonstrably contribute to agreed community outcomes as identified through the community planning process. The Council believes in the importance of partnership working in order to effectively discharge its community role, achieve value for money and to seek continuous improvement in all its endeavours

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

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above. The Council will monitor and evaluate the operation of the Constitution as set out in Article 13.

In this Constitution, unless the contrary intention appears:

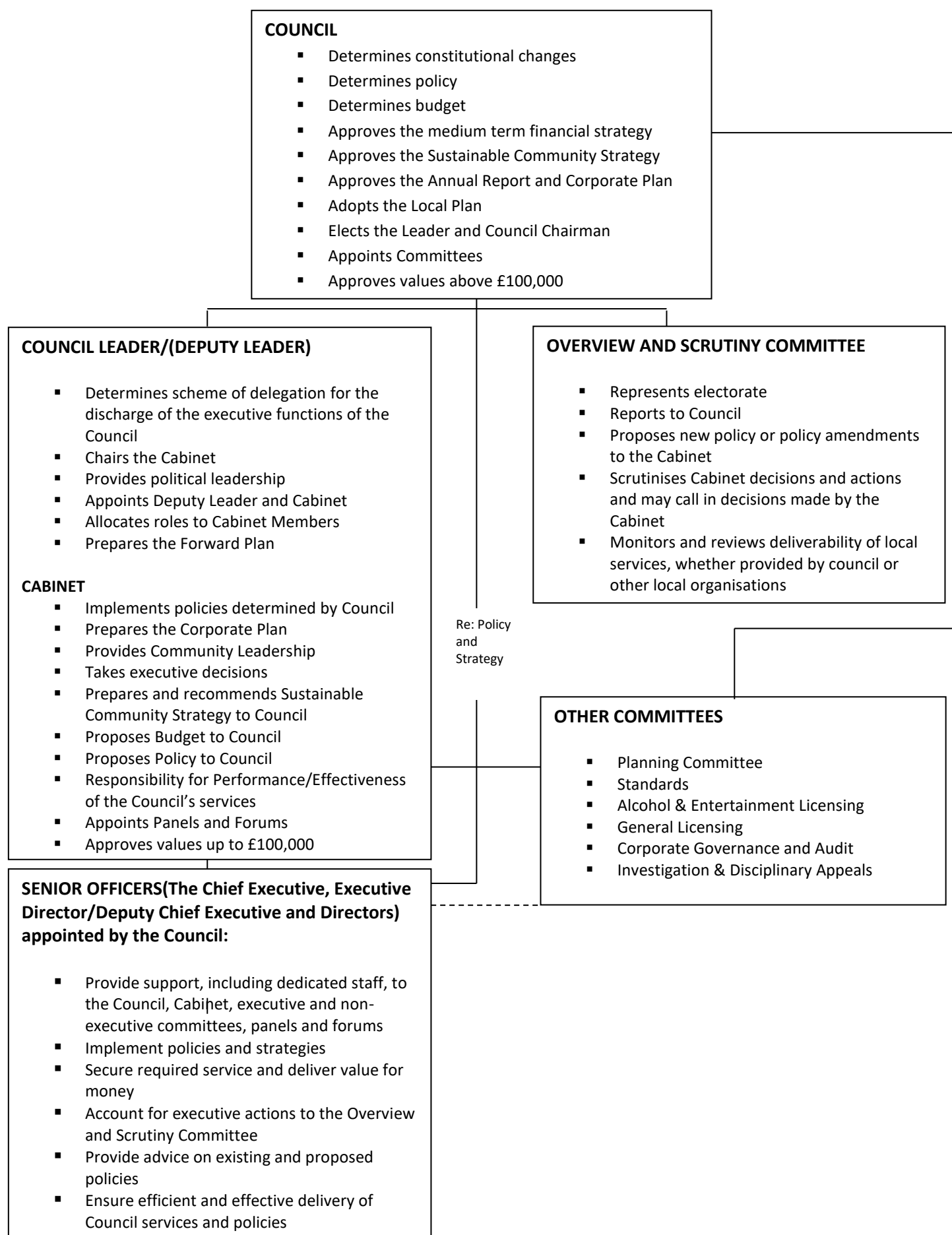
- (a) words importing the masculine gender include the feminine
- (b) words importing the feminine gender include the masculine
- (c) words in the singular include the plural and words in the plural include the singular

#### **1.05 Constitutional Structure of the Council**

Table 1 illustrates the Council's Constitutional structure. It is explained in the rest of Part 2 of this Constitution.



**Table 1: Constitutional Structure of the Council**



## **Article 2 – Members of the Council**

### **2.01 Composition and eligibility**

- (a) Composition: The Council comprises 36 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by Order in Parliament.
- (b) Eligibility: Only registered voters of the district or those living or working there shall be eligible to hold the office of councillor. (See Sections 79 - 81 of the Local Government Act 1972 for a fuller description of eligibility).

### **2.02 Election and terms of councillors**

The regular election of councillors will normally be held on the first Thursday in May every four years. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election. In the event of a vacancy occurring between regular elections, a by-election will be held in accordance with statutory provisions.

### **2.03 Roles and functions of all councillors**

(a) Key Roles. All councillors will:-

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions
- (ii) consider the budget proposed by the Cabinet and vote on the final budget
- (iii) advise the Cabinet on decisions and policies that affect local issues
- (iv) review and question policies and decisions taken by the executive
- (v) contribute to the good governance of the area and actively encourage community participation and resident involvement in decision making
- (vi) effectively represent the interests of their ward and of individual constituents
- (vii) respond to constituents' enquiries and representations, fairly and impartially
- (viii) be familiar with the needs, priorities and aspirations of their local community by being accessible and by being involved in consultation with them and working with other local organisations
- (ix) represent the Council on other organisations and

- (x) maintain the highest standards of conduct and ethics

(c) Rights and duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public, information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (iv) All members have the right to attend any meetings of the Cabinet or Committees but (unless they are members of that Committee) not to speak, unless with the Chairman's permission, or vote.
- (v) Individual councillors are not able to give instructions to officers and contractors acting for the Council.

**2.04 Conduct**

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

**2.05 Allowances**

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

**2.06 Political Groups**

- (a) Councillors may belong to local political groups. The groups are entitled under the Local Government (Committees and Political Groups) Regulations 1990 to nominate councillors to fill a proportion of the seats on certain committees of the Council.

Under these Regulations the membership of most committees broadly reflects the proportion of councillors who are members of each political group on the Council.

The main principles are:

- (i) that not all the seats on the committee are allocated to the same political group
- (ii) that the majority of the seats on the committee is allocated to a political group if the majority of councillors belong to that group

- (iii) subject to principles (i) and (ii) above that the number of seats on the ordinary committees of the Council which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees as is borne by the number of members of that group to the membership of the Council
- (iv) Subject to principles (i) to (iii) above that the number of seats on each committee reflects the proportion of councillors in the various Groups.

Exceptions to these principles are:

- (i) The membership of the Cabinet which does not require to be politically balanced; and of the Overview and Scrutiny Committee and the Alcohol & Entertainment Licensing Committee, which are not ordinary committees, but which nevertheless are balanced in accordance with principle (iv) above.
  - (ii) If a political group does not use up its allocation.
  - (iii) Notice of proposed allocation of seats is given and no member objects.
  - (iv) An area committee covers an area or population which is less than 40% of the total and the committee members are drawn from that area.
- (b) At meetings of the Council and the committees, individual councillors may have regard to the views of their political group on policy matters provided they also take into account other relevant considerations. However this would not apply, for example, to individual planning applications.

## **2.07 External Representation**

The Council recognises the importance of its relationship with the communities it represents and all those who receive its services in order to provide desired outcomes. It achieves these aims in the following ways:

- by recognising the opportunity for the public and external bodies to be involved in its business through its committee structure and engagement with the community
- by making appropriate councillor appointments to other bodies
- by ensuring that the councillor representative role is meaningful and recognises the needs of the electorate

## **Article 3 – Residents and the Council**

### **3.01 Residents' rights**

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

- (a) Voting and petitions. Residents on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor. Anyone who lives, works or studies in the local authority area, including under 18's, can sign or organise a petition to request particular actions. Petitions will be managed and responded to in accordance with the Council's petition scheme and protocols set out in Part 5 of the Constitution.
- (b) Information. Residents have the right to:
  - (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private
  - (ii) attend meetings of the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private
  - (iii) find out the time and place of a public meeting and inspect a copy of the agenda and connected reports at the Council's offices and on its website
  - (iv) find out from the forward plan what key decisions will be taken by the Cabinet and when
  - (v) see reports and background papers, and any records of decisions made by the Council and the executive, unless they are exempt under the Access to Information legislation (see Part 4.2 of this Constitution) and
  - (vi) inspect the Council's accounts and make their views known to the external auditor
- (c) Participation. Residents have the opportunity to participate in the Council's question time scheme and to speak on planning applications, planning enforcement and alcohol and entertainment licensing matters. s may be invited to contribute to investigations by the Overview and Scrutiny Committee.
- (d) Complaints. Residents have the right to complain to:
  - (i) the Council itself under its complaints scheme (details are set out in Part 4 of this Constitution)

- (ii) the Local Government Ombudsman - normally after using the Council's own complaints scheme and
- (iii) the Monitoring Officer about an alleged breach by a member of the Members' Code of Conduct (details are set out in Part 5 of this Constitution)

### **3.02 Residents' responsibilities**

Residents must not be violent, abusive or threatening to councillors or Council staff, and must not willfully harm things owned by the Council, councillors or officers.

Residents attending meetings must also comply with the directions of the Chairman and refrain from disruptive behaviour.

## **Article 4 – The Full Council**

### **4.01 The Role of Council**

Council is the policy making body from which the Policy Framework will be established and the Budget set. Council has responsibility for ensuring that the correct structures are in place for the effective implementation and delivery of its services. This includes the exercise of overall responsibility for the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972. Once the structures are agreed and appointments made, the Cabinet will be delegated the responsibility of policy implementation and effective service delivery. The election of the Leader and appointment of Committees (except the Cabinet), will be the responsibility of Council.

Each year the Council will elect a Chairman who shall not then be a member of the Cabinet or the Overview and Scrutiny Committee. The Council shall normally meet six times per year unless a need is identified for any additional meeting.

### **4.02 Meanings**

(a) Policy Framework:

- i) The Policy Framework means the plans, policies and strategies which must be approved or adopted by the full Council and are, for the time being, the following:

Sustainable Community Strategy  
Corporate Plan  
Local Plan and plans and strategies which together comprise the Local Development Plan  
Infrastructure Business Plan, incorporating the Community  
Infrastructure Levy (CIL) Spending Plan  
Medium Term Financial Strategy  
Crime and Disorder Reduction  
Strategy Treasury Management  
Strategy Licensing Authority Policy  
Statement(s)  
Senior Pay Policy Statement

- ii) The Council may add further significant plans, policies and strategies to the Policy Framework as it sees fit from time to time.

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

### **4.03 Functions of the full Council**

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution, with the exception of matters allocated to the Cabinet, and related Standing Orders and Procedure Rules and subject to the provisions of Article 13 in relation to minor and consequential amendments and to the powers of the Cabinet and certain Committees to agree protocols
- (b) deciding the major policies or objectives of the Council, and specifically to approve the budget and financial strategies, and the plans and strategies listed in Article 4.02 under Policy Framework
- (c) the discontinuance of, or major alterations to, existing services
- (d) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget
- (e) electing the Leader and removing him or her from office; appointing Committees (except the Cabinet) and their Chairmen and Vice Chairmen; dissolving a Committee or altering its membership or terms of reference, except for any Panel or Forum appointed by the Cabinet
- (f) appointing representatives to outside organisations unless the appointment is made by the Cabinet or has been delegated by the Council
- (g) adopting an allowances scheme for Councillors under Article 2.05
- (h) confirming the appointment of the Senior Officers (the Chief Executive, Executive Director/Deputy Chief Executive and Directors) and determining the terms and conditions on which they hold office (including procedures for their dismissal)
- (i) designating officers as Head of Paid Service, Monitoring Officer and Section 151 Officer
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills
- (k) expressing its views to the Cabinet before the Cabinet resolve to make a compulsory purchase order
- (l) all local choice functions which the Council decides should be undertaken by itself rather than the executive, and not listed in Part 3 of this Constitution
- (m) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993, as amended, should apply in the authority's area
- (n) functions relating to elections which are not carried out by the Chief Executive



- (o) functions relating to name and status of areas and individuals as set out in Schedule 1 to the Functions Regulations; major decisions relating to district, county, parish or other boundaries
- (p) approval of all development plan documents associated with the Local Plan prior to public consultation on them (but not, for the avoidance of doubt, local development documents, such as supplementary planning documents, that are not development plan documents)
- (q) Adopting, revising or replacing the Members' code of conduct; approving arrangements under which allegations that a Member has failed to comply with the code of conduct can be investigated and decided upon; appointing an independent person or persons as required by Section 28 of the Localism Act 2011 and
- (r) all other matters which, by law, must be reserved to Council

#### **4.04 Council meetings**

There are three types of Council meeting:

- (s) the annual meeting
- (t) ordinary meetings
- (u) special meetings

They will be conducted in accordance with the Procedural Standing Orders in Part 4 of this Constitution.

#### **4.05 Responsibility for functions**

The Council will determine the responsibilities for the Council's functions which are not the responsibility of the executive.

## **Article 5 – Chairing the Council**

### **5.01 Role and function of the Chairman**

The Chairman of Council and in his/her absence, the Vice-chairman will have the following roles and functions:

#### **Ceremonial role**

The Chairman shall have primary responsibility for civic and ceremonial functions and shall

- attend functions both within and outside the district to represent the Council.
- host functions in order to promote the Council and its interests.
- attend and participate in ceremonial events.
- ensure that the Council's services and achievements are appropriately celebrated and publicised.

#### **Chairing the Council Meeting**

The Chairman will be elected by the Council annually. The Chairman will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary having regard to appropriate advice
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet and committee chairmen to account
4. to promote public involvement in the Council's activities
5. The Chairman of the Council has the power to suspend the Chief Executive in an emergency whereby his/her remaining presence at work poses a serious risk to the health and safety of others or the resources, information or reputation of the Council

## **Article 6 – Overview and Scrutiny Committee**

### **6.01 Role and function**

Overview and scrutiny is a non-executive function.

The way in which the overview and scrutiny function relates to that of the executive is shown in Table 1 of this Constitution.

### **6.02 General**

The Council determines the size, terms of reference and membership of the Overview and Scrutiny Committee whose responsibilities are set out below:

- a) to review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions
- b) to make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of its functions
- c) to consider matters affecting the area or its inhabitants and to act as community champion in reflecting the views and interests of the community
- d) to exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet
- e) to consider reports and recommendations received from the West Sussex Joint Scrutiny Steering Group and/or any task and finish group set up to carry out a joint scrutiny review and ensure that the report and recommendations are dealt with in a suitable manner and referred on to the Cabinet and/or Council for a decision as appropriate

### **6.03 Specific functions**

- (a) Policy development and review. The Committee may:
  - (i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues
  - (ii) conduct research within the resources approved, community and other consultation in the analysis of policy issues and possible options
  - (iii) consider and propose mechanisms to encourage and enhance community participation in the development of policy options
  - (iv) seek to improve the outcomes of current and new policies for the benefit of the community and
  - (v) question members of the Cabinet and/or committees and Senior Officers about their views on issues and proposals affecting the

area

(b) Scrutiny. The Committee may:

- (i) review and scrutinise the decisions made by and performance of the executive and/or committees and senior council officers both in relation to individual decisions and over time
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas
- (iii) question members of the executive and/or committees and Senior Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects
- (iv) make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Committee and local people about their activities and performance and
- (vi) question and gather evidence from any person (with their consent)

(c) Finance. The Committee may exercise overall responsibility for the finances made available to it.

(d) Annual report. The Committee must report annually to full Council on its workings and its proposed future work programmes and amended working methods if appropriate.

(e) Officers. The Committee will work in close liaison with officers employed to support its work.

#### 6.04 **Proceedings of the Committee**

The terms of reference and delegated powers of the Overview and Scrutiny Committee are set out in Part 3 Section 2 of the Constitution.

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

## **Article 7 – The Cabinet**

### **7.01 Role**

The Cabinet will carry out all of the local authority's functions which are not the specific responsibility of any other part of the local authority, whether by law or under this Constitution.

### **7.02 Form and composition**

The Leader will determine the size of the Cabinet within statutory limits. The Leader will appoint between 2 and 9 other councillors (referred to as Cabinet Members) to the Cabinet and allocate areas of responsibility (portfolios) to them. The Leader and Cabinet Members collectively form the Cabinet. None of the members of the Cabinet will be members of the Overview and Scrutiny Committee.

### **7.03 Leader**

The Leader will be a councillor elected to the position of Leader by a majority vote of the Council. The Leader will hold office until:

- (a) he/she resigns from the office or
- (b) he/she is suspended from being a councillor under relevant statutory provisions (although he/she may resume office at the end of the period of suspension) or
- (c) he/she is no longer a councillor or
- (d) he/she is removed from office by resolution of the Council provided that notice of any motion which would have the effect of removing him/her from office is delivered in writing to the office of the Chief Executive 10 clear days before the relevant Council meeting, signed by at least 10 councillors who reflect the proportion of seats of the political groups on the Council or
- (e) the election of another Leader at the next post-election Annual Council meeting

### **7.04 The Leader and the Cabinet**

The Leader

- (a) determines the scheme of delegation for the discharge of the executive functions of the Council
- (b) has responsibility for the smooth running of the Cabinet
- (c) chairs all meetings of the Cabinet

- (d) may appoint Special Advisers to assist Cabinet Members in consultation with Cabinet Members and
- (e) has responsibility for the allocation of portfolios to the Cabinet members and may vary them at his/her discretion

#### **7.05 The Deputy Leader**

The Leader shall appoint one of the Cabinet Members to be the Deputy Leader. The Deputy Leader will hold office until:

- (a) he/she resigns from the office or
- (b) he/she is suspended from being a councillor under relevant statutory provisions (although he/she may resume office at the end of the period of suspension) or
- (c) he/she is no longer a councillor or
- (d) he/she is removed from office by the Leader

The Deputy Leader will carry out the functions of the Leader when he/she is absent

#### **7.06 The Cabinet Members**

Cabinet Members shall hold office until:

- (a) they resign from office or
- (b) they are suspended from being councillors under relevant statutory provisions (although they may resume office at the end of the period of suspension) or
- (c) they are no longer councillors or
- (d) they are removed from office, either individually or collectively, by the Leader  
During their period as a Cabinet Member each councillor will be expected to work closely with designated officers. This will require an effective system of relevant information provision to those councillors. Responsibility for the identification of such information lies with the designated officers who will also be expected to brief the appropriate councillor on important operational items which may be happening as part of delegated Council business. Councillors expected to speak at Cabinet meetings, or called in to speak at the Overview and Scrutiny Committee meetings, must also be briefed by appropriate officers who will be entitled to accompany them at such meetings and able to speak there in their own right

The generic role of a Cabinet Member will include:

- (i) Collective responsibility for policy implementation as a Cabinet Member

- (ii) Specific responsibility for introducing reports and speaking at the Cabinet on issues within allocated portfolios
- (iii) Occasional responsibility for speaking on behalf of the Council at outside meetings where councillor attendance is required
- (iv) An acceptance of the need to be well informed, and where appropriate to undergo training about relevant current issues
- (v) Responding to media requests as appropriate in relation to topical issues. In this respect each councillor should attend media training sessions
- (vi) Speaking at Council meetings and answering questions on issues relevant to the allocated portfolio
- (vii) Chairing forums or panels as designated by the Cabinet
- (viii) Attendance at the Overview and Scrutiny Committee when requested to speak on particular performance issues

#### **7.07 Proceedings of the Cabinet**

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

#### **7.08 Responsibility for functions**

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions.

## **Article 8 – Regulatory and other Committees**

### **8.01 Regulatory and other committees**

The Council will appoint the following committees

- Overview and Scrutiny Committee
- Planning Committee
- Alcohol & Entertainment Licensing Committee
- General Licensing Committee
- Standards Committee
- Corporate Governance and Audit Committee
- Investigation and Disciplinary Committee
- Appeals Committee
- Independent Remuneration Panel
- Parish Remuneration Panel

The Council may appoint other Committees, including Area Committees, and Panels.

Their terms of reference and delegated powers are set out in Part 3 of this Constitution.



## **Article 9 – Joint Arrangements**

### **9.01 Arrangements to promote well being**

The Council in order to promote the economic, social or environmental well-being of its area may:

- (a) enter into arrangements or agreements with any person or body
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body and
- (c) exercise on behalf of that person or body any functions of that person or body

### **9.02 Joint arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Leader may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) Details of joint arrangements (if any) including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **9.03 Access to information**

- (a) The Access to Information Procedure Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.
- (c) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VI of the Local Government Act 1972 will apply.

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

- (a) The Council may delegate or accept delegation of non-executive functions to or from another local authority or public agency.
- (b) The Cabinet may delegate or accept delegation of executive functions to or from another local authority or public agency.

#### **9.05 Contracting out**

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, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## **Article 10 – Officers**

### **10.01 Management Structure**

#### **(a) General**

The District Council may employ such staff (referred to as Officers) as it considers necessary to carry out its functions. The full Council will confirm the appointment of the Senior Officers only i.e. the Chief Executive, Executive Director/Deputy Chief Executive and Directors. All other officers will be appointed by a Director or by one of their managers.

Senior Officers have the responsibility for supporting both the executive and review roles of the Council and may have to account for executive actions to the Overview and Scrutiny Committee.

Essentially, Senior Officers have responsibility for advising the Council and its committees on policy formulation, development and implementation, and for ensuring that the policy, management of services and strategic roles of the Council are adequately supported and advising on the appropriate level of resources in order for this to be achieved. They have direct responsibility for the procurement of appropriate services both in terms of specification and performance to deliver agreed strategic outcomes within the resources allocated by Council. They also have responsibility for making strategic decisions and to prioritise officer activity to this end. They are directly responsible to the Council and its committees for their actions and are subject to the scrutiny activity of the Overview and Scrutiny Committee.

The Constitution recognises that the Council's arrangements for community planning, strategic management and value for money ensure that decisions within approved Council policy affecting service delivery are made by the Senior Officers without the need for councillor involvement.

#### **(b) Senior Officers**

The Senior Officers are the Chief Executive, the Executive Director/Deputy Chief Executive and Directors.

The Chief Executive is the most senior member of staff of the Council and is the Head of the Paid Service. The Chief Executive shares overall corporate management and operational responsibility with the Executive Director/Deputy Chief Executive and Directors. They give advice on policy formulation, development and implementation, and are accountable to committees and the Council for their actions.

All Senior Officers are entitled to attend and participate in all Council and committee meetings, forums and panels as they consider appropriate.

Any Senior Officer may assume the powers and act in the absence of another.

Each Senior Officer shall be a proper officer for any purpose required by a statute or statutory instrument which is not specified in the scheme of delegation to staff.

**(c) The Directors**

The four Directors are:

Director of Corporate Services  
Director of Growth and Place  
Director of Housing and Communities  
Director of Planning and the Environment

They operate within the strategic management of the Chief Executive

They are responsible for the day to day operational delivery of services in an economic, efficient and effective manner.

They exercise decision making in accordance with the powers delegated to them.

**(d) Statutory Appointments**

The Council will designate the posts shown in Table 2 below:

**Table 2: Statutory Appointments**

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service (Section 4 Local Government & Housing Act 1989) Electoral Registration Officer (Section 8 Representation of the People Act 1983) Returning Officer for District and Parish Council Elections and Referenda (Section 35 Representation of the People Act 1983) Acting Returning Officer for Parliamentary Elections (Section 28 Representation of the People Act 1983) Acting Returning Officer for European Elections (Section 4 European Parliamentary Elections Act 1978) Deputy Returning Officer for County Council Elections (Section 35 Representation of the People Act 1983) Local Returning Officer for the Police Commissioner elections (Section 54 Police Reform and Social Responsibility Act 2011) and Referendums
Democratic Services Divisional Manager	Monitoring Officer (Section 5 Local Government & Housing Act 1989)

Director of Corporate Services	Chief Finance Officer (Section 151 Local Government Act 1972)
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Such posts will have the functions described in Article 10.02–12.04 below.

#### **10.02 Functions of the head of paid service (the Chief Executive)**

- (a) Discharge of functions by the Council. The head of paid service will report to full Council on the manner in which the discharge of the Council's functions is coordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) Restrictions on functions. The head of paid service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

#### **10.03 Functions of the Monitoring Officer (the Legal and Democratic Services Divisional Manager)**

- (a) Maintaining the Constitution. The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for inspection by members, officers and the public.
- (b) Ensuring lawfulness and fairness of decision making. After consulting with the Chief Executive and the s151 Officer, the Monitoring Officer will report to the full Council, or to the Cabinet in relation to an executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) 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. Responsible for all Monitoring Officer functions in respect of parish councils within the area of the authority, and for making arrangements in conjunction with the Standards Committee for the provision of advice and training to members of the Council on the ethical framework.
- (d) In consultation with the Chairman or (in his absence) the Vice-Chairman, of the Council, granting dispensations under s 33 Localism Act 2011 enabling councillors with interests to speak and/or vote at meetings.
- (e) Dealing with Standards Allegations under the Localism Act 2011. The Monitoring Officer:
  - (i) will carry out an initial assessment of every allegation that a member of the Council or of a parish council in the district has failed to comply with the code of conduct and, after consulting the Independent Person, decide whether it should be referred to the Assessment Sub-

Committee;

- (ii) will appoint an investigating officer if the Assessment Sub-Committee decides that a complaint merits formal investigation;
  - (iii) will review the investigating officer's report, in consultation with the Independent Person, and determine either that no further action is required or that the matter should be referred to the Hearing Sub-Committee.
- (f) Proper officer for access to information. The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.
- (g) Advising whether executive decisions are within the budget and policy framework. The Monitoring Officer will advise whether decisions of the executive are in accordance with the budget and policy framework.
- (h) Providing advice. The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (i) Contributing to corporate management.
- (j) Restrictions on posts. The Monitoring Officer cannot be the Chief Finance Officer or the head of paid service.

The Monitoring Officer may appoint a Deputy Monitoring Officer(s) to exercise all or any of his responsibilities.

#### **10.04 Functions of the Chief Finance Officer (the Director of Corporate Services)**

- (a) Ensuring lawfulness and financial prudence of decision making. After consulting with the Chief Executive and Monitoring Officer the Chief Finance Officer will report to the full Council, or to the Cabinet in relation to an executive function, and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) Administration of financial affairs. The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) Contributing to corporate management. The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) Providing advice. The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors

and will support and advise councillors and officers in their respective roles.

- (e) Give financial information. The Chief Finance Officer will provide financial information to officer, the media, members of the public and the community.
- (f) Restrictions on posts. The Chief Finance Officer cannot be the Monitoring Officer.

The Chief Finance Officer may appoint a Deputy Chief Finance Officer(s) to exercise all or any of his responsibilities.

#### **10.05 Duty to provide sufficient resources to the returning officer, Monitoring Officer and chief finance officer**

The Council will provide the returning officer, Monitoring Officer and chief finance officer with such officers, accommodation and other resources as are in the post- holder's opinion sufficient to allow their duties to be performed.

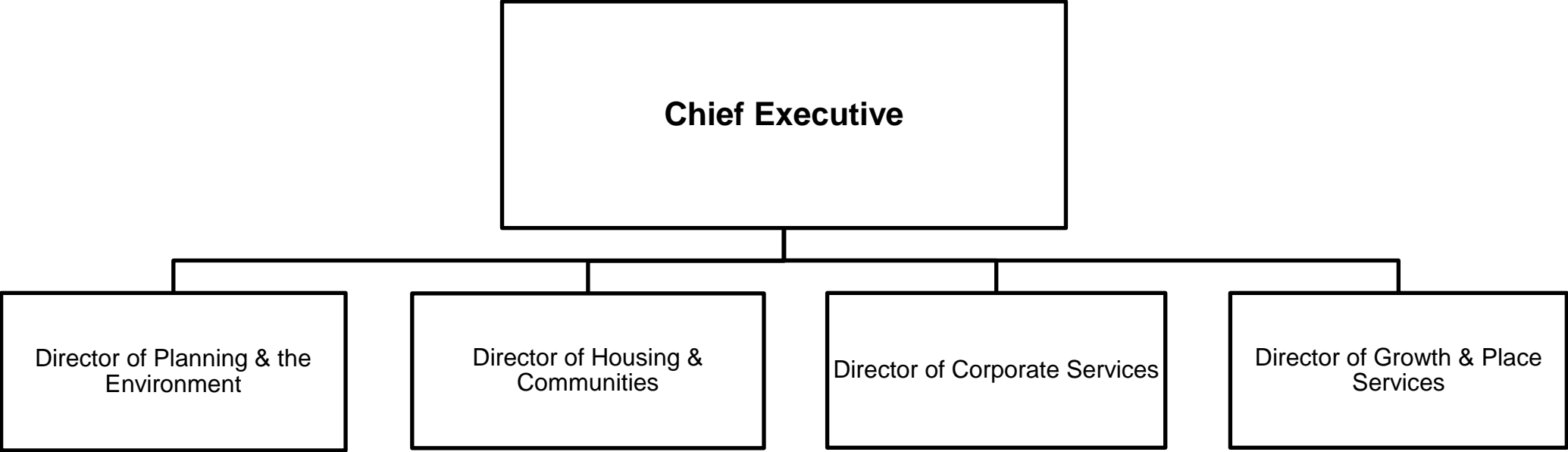
#### **10.06 Conduct**

Staff will comply with the Employee Code of Conduct and the Protocol on Member/Employee Relations set out in Part 5 of this Constitution.

#### **10.07 Employment**

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

**Table 3 – Chichester District Council Senior Management Structure**  
with effect from 1 April 2018





## **Article 11 – Decision Making**

### **11.01 Responsibility for decision making**

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

### **11.02 Principles of decision making**

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

- (a) within legal and financial parameters
- (b) proportionality (i.e. the action must be proportionate to the desired outcome)
- (c) due consultation and the taking of professional advice from officers
- (d) respect for human rights
- (e) a presumption in favour of openness
- (f) clarity of aims and desired outcomes
- (g) promotion of equality
- (h) reduction in crime and disorder
- (i) sustainability and
- (j) compliance with members' and officer codes of conduct

### **11.03 Types of decision**

- (a) Decisions reserved to full Council

Decisions relating to the functions listed in Article 4.3 (Policy Framework and Budget) will be made by the full Council and not delegated.

- (b) Key decisions

- (i) A “key decision” means an executive decision which:
  - (a) is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for

the service or function to which the decision relates or

- (b) is likely to be significant in terms of its effects on communities living or working in an area comprising one or more wards in the Council's area or
  - (c) is likely to incur expenditure, generate income, or produce savings greater than £100,000
- (ii) In accordance with section 38 of the Local Government Act 2000, in determining the meaning of "significant" for the purposes of paragraph (1) regards shall be had to any guidance for the time being issued by the Secretary of State.
  - (iii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.
  - (iv) In assessing whether a decision is a key decision, the decision taker must consider all the circumstances of a case.

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

Subject to Article 11.08, the Council meeting will follow the Council Procedural Standing Orders set out in Part 4 of this Constitution when considering any matter.

#### **11.05 Decision making by the Cabinet**

Subject to Article 11.08, the Cabinet will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **11.06 Decision making by the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

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

Subject to Article 11.08, other Council committees and sub-committees will follow those parts of the Procedural Standing Orders set out in Part 4 of this Constitution as apply to them.

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

The Council, its committees, a councillor or an employee 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 12 – Finance and Contracts**

### **12.01 Financial management**

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

### **12.02 Contracts**

Every contract made by the Council will comply with the Contract Standing Orders set out in Part 4 of this Constitution unless the Cabinet authorise an exemption in exceptional circumstances (see Contract Standing Order 1.2).

## **Article 13 - Review and Revision of the Constitution**

### **13.01 Duty to monitor and review the Constitution**

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

#### **Protocol for monitoring and review of constitution by Monitoring Officer:**

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

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### **13.02 Changes to the Constitution**

Changes to the constitution will be approved by the full Council after consideration of the proposal by the Cabinet.

The Monitoring Officer may make changes to the Constitution which are necessary in order to comply with the law, to reflect decisions of full Council, to correct errors or clarify ambiguities where to do so does not alter (but gives further effect to) the executive arrangements or the principles enshrined in the Constitution.

## **Article 14 – Suspension, Interpretation and Publication of the Constitution**

### **14.01 Suspension of the Constitution**

- (a) Suspension of the Articles. The Articles of this Constitution may not be suspended.
- (b) Suspension of the Rules of Procedure. A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors is 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.

### **14.02 Interpretation**

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

### **14.03 Publication**

The Monitoring Officer will ensure that printed copies of this Constitution are available for inspection at council offices, and can be purchased by members of the local press and the public on payment of a reasonable fee, and that a copy is on the Council's website.

## **Schedule 1: Description of Executive Arrangements**

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Overview and Scrutiny Committee) and the Overview and Scrutiny Procedure Rules (Part 4.5)
2. Article 7 (The Cabinet) and the Executive Procedure Rules (Part 4.4)
3. Article 9 (Joint arrangements)
5. Article 11 (Decision making) and the Access to Information Procedure Rules (Part 4.2)
6. Part 3 (Responsibility for Functions)

## **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

### **Section 1 – Introduction**

1. The District Council is required by the Local Government Act 2000 and regulations made under it, to indicate how it has arranged for its functions to be carried out. The District Council has delegated its functions by means of its Scheme of Delegation which follows these pages as Sections 2 and 3 in this part of the Constitution.
2. Functions of the District Council are either Executive or non-executive. Non-executive functions are retained by the Council and listed in Article 4 of Part 2 of this Constitution, or are delegated to the Cabinet, non-executive committees or officers as described in paragraphs 4 and 5 below. All other functions are executive functions.
3. The terms of reference of the Cabinet and non-executive committees are set out in Section 2 in this part of the Constitution. Delegation to officers is set out in Section 3 in this part of the Constitution.

### **Non-Executive Functions**

4. Non-Executive functions listed in Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 as amended, which must not be the responsibility of the Cabinet, have been delegated to non-executive committees or to officers in accordance with the Scheme of Delegation.
5. Those functions where the District Council has a choice as to whether they are treated as executive or non-executive functions in accordance with Schedule 2 of those regulations have been delegated as follows: to non-Executive committees, to officers, or to the Cabinet in accordance with the Scheme of Delegation.

### **Executive Functions**

6. Executive functions are delegated either to the Cabinet, individual Cabinet Members, officers or joint arrangements with other local authorities and public bodies.



## **Section 2 - Terms of Reference and Delegated Powers of Committees**

### **Powers Delegated to Committees**

Each Committee is authorised to exercise such powers and duties as are delegated to it by the Council and shall act within the plans, policies, strategies and budgets approved by the Council.

All Committees have power to create such sub-committees as are necessary for the efficient conduct of their business.

The functions listed in Article 4.03 Functions of the Full Council may not be delegated.

### **Cabinet**

Constitution: Between 3 and 10 Members of Council including the Leader and Deputy Leader

Meetings: 11 times per year

The Cabinet will be the executive arm of the Council with the authority to action policies within the plans, strategies and budget approved by the Council.

The constitution of between 3 and 10 members is not required to follow the rules of proportionality relating to political parties.

The Leader of the Council, as elected by Council, shall chair the Cabinet meetings and shall designate a portfolio role to each member of the Cabinet.

The Leader may also appoint Special Advisers to assist Cabinet Members.

The Leader shall prepare the forward plan of key decisions to be made by the Cabinet.

For the avoidance of doubt, any reference to partnerships contained below may not include legally binding partnerships.

### **Terms of Reference**

1. To exercise those functions which are not the responsibility of the Council, another committee or an employee.
2. To establish joint arrangements with one or more local authorities to exercise functions which are executive functions, including the delegation or acceptance of delegation of executive functions to or from another local authority or public agency. Such arrangements may involve the appointment of joint committees with these other local authorities.
3. To implement policies as determined by Council.
4. To determine key decisions, as defined in Article 11.03(b).
5. To advise the Council on financial and economic policy, to determine the Council

Tax base, and to recommend annually, as determined by statute, proposals for the Council Tax.

6. To maintain overall control of the accounts and approved budgets and to consider virement requests in accordance with financial regulations.
7. To determine an itemised Asset Renewal Programme annually as part of the approved Capital Programme.
8. To approve the use of reserves for expenditure not exceeding £100,000 in any case, provided that this does not reduce the general fund reserve below the minimum level approved by the Council.
9. To recommend to the General Licensing and Alcohol and Entertainment Licensing Committees the fees and charges relating to licences and registrations.
10. In partnership with other agencies, to review and update as required the Sustainable Community Strategy for the consideration of the Council.
11. To submit annually to the Council a Corporate Plan and Annual Report and to monitor its effectiveness.
12.
  - a) To be responsible for the production and review of the Local Plan under the Town and Country Planning Act 1990 consulting the Planning Committee as appropriate and, subject to final approval by the Council, of (i) issues papers and draft policies and proposals prior to public consultation on them, and (ii) the final version of the Local Plan; and
  - b) Consulting the Planning Committee as appropriate, to prepare supplementary planning guidance, designate conservation areas, areas of archaeological interest and nature reserves, remove permitted development rights through Article 4 Directions, and undertake other functions under the Town and Country Planning Acts which are not carried out by the Planning Committee or officers.
13. To prepare, or consider (new or amended) policies from the Overview and Scrutiny Committee for the consideration of Council.
14. To exercise the powers and duties of the Council under all statutes, regulations, and codes of practice relating to the health and safety of Council staff.
15. To make recommendations to the Council on employment policies for staff and general employment issues.
16. To ensure adequate training and development for elected members.
17. To award contracts on behalf of the Council in accordance with Contract Standing Orders.
18. To oversee the Council's corporate accommodation and to ensure the provision of safe, well maintained premises to staff and public and to recommend the acquisition and disposal of such property.
19. To be responsible for the acquisition, management, maintenance, disposal and

letting of all property of the Council and to consider the views of the Council before making a compulsory purchase order.

20. To be responsible for the review and implementation of the Council's Asset Management Plan and Capital Strategy.
21. To prepare and advise Council on proposed changes to Procedural Standing Orders, Financial Regulations, Contract Standing Orders, and delegations.
22. To act on behalf of the Council in any cases where urgent decisions are required and such matters cannot conveniently be dealt with by the Council or by another appropriate committee or under the delegated powers of staff.
23. To advise the Council on proposals for emergency planning and to ensure an adequate response to incidents affecting the district.
24. To exercise general control over the information, public relations and publicity services of the Council.
25. To prepare, approve and implement the Council's ICT Strategy.
26. To respond on behalf of the Council to external reports and consultation papers.
27. To authorise exceptions to approved policies only where the particular merits of individual cases justify the exceptions being made.
28. To appoint a Grants and Concessions Panel to advise in respect of applications for rate relief from charities and non-profit making organisations in accordance with the provisions of the Local Government Act 1988 in addition to the full range of other grants and concessions.
29. To annually approve the budgets available to the Grants and Concessions Panel, the priorities to be used to encourage applications, and any adjustments to delegations to achieve efficiency and transparency.
30. To authorise the spend of section 106 monies of £50,000 or over, following consultation with the ward member.
31. To appoint appropriate Panels and Forums to assist or advise the Cabinet in carrying out its functions.
32. To appoint or nominate persons to outside organisations which relate to functions of the Cabinet.

### **Cabinet Members (in respect of their Portfolios)**

Such decisions as the Cabinet may from time to time delegate to them, and in particular the following:

### **Cabinet Member for Community Services and culture**

1. Participation in the appeal process under the Accessible Homes Grant Policy as substitute for the Cabinet Member for Housing Services.

2. To approve, subject to the terms of the Grants and Concessions Policy and associated criteria:
  - Grants (including HECA Grants) greater than £1,000, taking account of the views of the Grants and Concessions Panel at their meetings.
  - Grants (including HECA Grants) of up to £1,000, or variations of previously awarded grants within the spirit of the award, in consultation with two other members of the Grants and Concessions Panel by electronic or other documented means.
  - Concessions against rent payable on Chichester District Council owned premises or land.
  - Concessions against Business Rates collected by Chichester District Council.
3. To approve, subject to the terms of the New Homes Bonus (Parish Allocations) Policy and associated criteria:
  - Awards of up to £25,000 for any single project or where the total value of multiple projects from the same Parish does not exceed £25,000.
  - Agreement of the detail of application process, documentation and supporting guidance.
  - Subsequent variation to the application process, documentation and supporting guidance to ensure the continued effectiveness of the process and consistency with the New Homes Bonus Policy.

(For the avoidance of doubt, where a request exceeds the delegation, a recommendation will be made to Cabinet. The Leader or Deputy Leader is also delegated the powers relating to Grants and Concessions and New Homes Bonus (Parish Allocations) held by the Cabinet Member for Community Services, where that member has a prejudicial interest or is otherwise unavailable.)

### **Cabinet Member for Housing, Communications Licensing and Events**

Participation in the appeal process under the Accessible Homes Grant Policy.

### **Cabinet Member for Planning Services**

Determination of matters relating to the West Sussex and Greater Brighton Strategic Planning Board, in consultation with the Director of Planning and the Environment.

### **Cabinet Member for Finance, Corporate Services, Revenues and Benefits**

Determination of honoraria or ex gratia payments to Council staff upon recommendation of a Chief Officers between £1,000 and £3,000.

The Cabinet Member for Corporate Services is also delegated the powers relating to Grants and Concessions and New Homes Bonus (Parish Allocations) held by the Cabinet Member for Community Services, where that member has a prejudicial interest or is otherwise unavailable.

### **Overview and Scrutiny Committee**

Constitution: 11 Members (excluding members of the Cabinet and the Chairman of

the Council) based on political proportionality.

The Committee shall report directly to Council. Frequency of Meetings: at least 4 times per year.

#### Terms of reference

1. To consider any matters which affect the authority or the whole or part of its administrative area or some or all of the inhabitants of that area.
2. To carry out an overarching scrutiny role. To develop the annual scrutiny work programme and submit it to Council for agreement.
3. To develop, scrutinise or review council policies and to make proposals to the Cabinet, as appropriate, for new or amended policies.
4. To scrutinise policy decisions to ensure compliance with approved policy objectives and to review decisions or proposed decisions of the Council, the Cabinet or officers.
5. To comment upon and make recommendations to the Cabinet on external reports and consultation papers.
6. To consider issues of performance.
7. To receive reports from the West Sussex Joint Scrutiny Steering Group on any joint scrutiny reviews carried out and to comment upon and make recommendations, as necessary, to the Cabinet on those reports and recommendations.
8. To review performance against the Council's Corporate Plan and Annual Report and to report to Council as appropriate.
9. To consider decisions which have been requested for call-in and to carry out the powers in relation to Cabinet decisions made but not implemented as set out in Section 21(3) of the Local Government Act 2000.
10. To consider a petition or a request for a review of the council's response to a petition in accordance with the council's petition scheme.
11. To request evidence from or attendance by officers of the Council, members of the public, local organisations, external bodies and partnerships as covered by scrutiny guidance and legislation to contribute to and promote transparent scrutiny reviews.
12. To appoint time limited task and finish groups or working groups led by Members, or to establish one off scrutiny reviews where that is appropriate, to undertake detailed scrutiny work and to involve both Scrutiny and Non-Scrutiny Members with the relevant skills or background to assist with those reviews.
13. To have the option to increase the size of the Committee temporarily for specific in depth reviews by drawing upon Member expertise with specific interest and outside specialists as appropriate.
14. To procure specialist information services designed to supplement resources

ordinarily available to the Committee using delegated budgetary powers.

15. To consider proposals for change to the scrutiny process and make associated recommendations as required.
16. To present an Annual Report of the Committee's work to full Council.
17. To make recommendations to the Cabinet or Council as appropriate. To refer appropriate matters to the Corporate Governance and Audit Committee for review.
18. To require partner authorities or external organisations to 'have regard' to a report or recommendations as required.

### **Corporate Governance and Audit Committee**

Constitution: 8 Members of Council including the Cabinet Member for Corporate Services and a representative from the Overview and Scrutiny Committee, and the membership to be based on political proportionality.

The Committee will report directly to the Council. The Chairman shall not be a member of the Cabinet.

Frequency of Meetings: at least 4 times per year

Terms of Reference

1. Identify and consider new corporate risks and review existing known risks along with the control and monitoring arrangements in place.
2. Review or determine the Internal Audit priorities based on the corporate governance issues and risk assessments made.
3. Review progress/effectiveness and probity of corporate governance within the authority, arrangements with external audit, internal audit and the implementation of their recommendations.
4. Report to full Council each year or at any time where significant issues or concerns are raised, on corporate governance issues and the internal arrangements in place to monitor and control risks.
5. Monitor the effectiveness of committees and panels.
6. Keep the Council's financial regulations and contract standing orders under review and make recommendations to the Cabinet and the Council.
7. Ensure effective scrutiny of the Council's treasury management strategy and policies.
8. Consider reports from the Chief Finance Officer on the Council's financial control systems.
9. Consider reports from the Chief Finance Officer on the Council's insurance policies and self-insurance arrangements.

10. Monitor systems and policies to prevent fraud.
11. Approve annually the final accounts of the Council.
12. Monitor the efficiency of the Council's services as required.
13. Annual review how the Council deals with complaints from members of the public relating to services provided by the Council including those complaints referred to the Local Government Ombudsman and effectiveness of the operation of the Corporate Complaints Scheme.
14. Monitor the S.106 obligations and the spending of the Community Infrastructure Levy (CIL)
15. Receive reports from the Council's external auditors, the ombudsman and the other appropriate bodies and propose appropriate action.

### **Planning Committee**

Constitution: 13 Members of the Council

Terms of Reference

In respect of decisions to be made and actions to be taken, including those taken under any agency agreement in respect of the South Downs National Park:

1. All functions relating to town and country planning and development management as specified in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 including enforcement and all powers under the Planning Acts to obtain information as to interests and particulars of persons interested in land.

Provided that:

When any planning application is being considered by the Committee, if, before any decision is made in respect of that application, a Committee member proposes that the decision on the application shall be made by the Council, and if, on a vote being taken by the Committee, there is a majority of votes in favour of the proposal, then the conclusion of the Committee on the planning merits of the application shall be treated as a recommendation by the Committee to the Council.

2. To determine all applications for planning permission made by the Council to which Regulation 3 of the Town and Country Planning General Regulations 1992 applies.
3. To inform the Cabinet of its views on the formulation of policies for the Local Plan.
4. To determine all matters relating to the control of advertisements, the preservation of trees, buildings and important hedgerows, the extinguishment or diversion of public highways affected by development and the service of purchase notices and notices as to waste land.
5. To administer and enforce the Building Regulations and any other statutory

authorisations taking into account any recommendations expressed by the Cabinet.

6. The institution of prosecution proceedings or other enforcement action where the Director of Growth and Place and the Democratic Services Divisional Manager consider the matter merits the Committee's attention.
7. The enforcement of the provisions in the Health Act 2006 and regulations relating to smoke-free premises, places and vehicles.
8. To advise the Cabinet on any matters relating to claims and payments for statutory compensation arising from decisions on planning cases.
9. To determine all matters relating to high hedges arising under Part 8 of the Anti-social Behaviour Act 2003, the High Hedges (Appeals) (England) Regulations 2005 and all related legislation.
10. To determine applications affecting footpaths and bridleways etc. under Sections 118 and 119 of the Highways Act 1980 as amended.

### **General Licensing Committee**

Constitution: 10 Members of Council (including at least one member of the Cabinet)

#### **Terms of Reference**

The licensing and enforcement functions of the District Council relating to:

- (a) taxi, food and miscellaneous licensing, health and safety and certain deposits on highways as set out in Sections B, C and I (22) of Schedule 1
- (b) contaminated land, control of pollution and the management of air quality as set out in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000; and Motor Salvage Operators
- (c) decisions as to the revocation of HMO licences under the Housing Act 2004
- (d) the approval of revisions to the Guidance for Consent Streets, to oversee the general administration of the consent regime and to review and determine from time to time the level of fees for the grant of consents for street trading

In particular the Committee will consider and determine

1. Applications relating to licences, permits, approvals, orders, consents or similar authorisations, under the above provisions where the Director of Housing & Communities considers that the matter merits the Committee's attention.
2. Whether or not the holder of a licence etc., is a fit and proper person to continue to benefit from the grant of the licence etc.
3. Amendments to the hackney carriage fare tariff.
4. The introduction of or amendments to, licence conditions, byelaws, orders, consents, approvals, permits or other similar authorisations.
5. Fees and charges for licences, permits, approvals, consents or similar



authorisation taking into account any recommendations expressed by the Cabinet.

6. The institution of prosecution proceedings or other enforcement action where the Director of Growth and Place and the Democratic Services Divisional Manager consider the matter merits the Committee's attention.
7. The enforcement of the provisions in the Health Act 2006 and regulations relating to smoke-free premises, places and vehicles.

### **General Licensing Sub-Committees**

Constitution: 4 members selected on each occasion by the Director of Planning & the Environment from the 10 members of the General Licensing Committee which shall normally include the chairman or vice-chairman of that committee.

#### **Terms of Reference**

1. The Council's Licensing and Enforcement functions relating to individual licences, consents or permits for:
  - a) hackney carriages and private hire drivers, vehicles, and private hire operators' licences (taxi licences)
  - b) caravan sites
  - c) animal welfare
  - d) street trading
  - e) houses in multiple occupation
  - f) public protection
  - g) sex establishments

where the Director of Growth and Place considers the matter merits the Sub-Committee's attention.

2. In particular the Sub-Committees will:
  - (i) consider and determine:
    - a) matters relating to licences, permits, approvals, orders, consents or similar authorisations, under the above provisions where the Director of Growth and Place considers that the matter merits the Sub-Committee's attention; and
    - b) appeals against refusal of consent issued by the Director of Growth and Place; and
  - (ii) receive reports on 'taxi licence' holders whose licence has been suspended in accordance with the Licensing and Enforcement Committee resolution in Minute 5 of its meeting on the 25th May 2006.

### **Alcohol & Entertainment Licensing Committee**

Constitution: 10 Members of Council (including at least one member of the Cabinet)

## Terms of Reference

The licensing and enforcement functions of the District Council relating to:

(a) functions under the Licensing Act 2003 including the following:

1. Applications for Premises Licences/Club Premises Certificates – if an adverse relevant representation subsists\*
2. Applications for Provisional Statements – if an adverse relevant representation subsists\*
3. Applications to vary Premises Licences/Club Premises Certificates – if an adverse relevant representation subsists\*
4. Applications to Review Premises Licences/Club Premises Certificates – if an adverse relevant representation subsists\*

(\*Most cases will be considered by an Alcohol and Entertainment Licensing Sub Committee but the Director of Growth and Place may refer the determination of a case to the Alcohol and Entertainment Licensing Committee instead if he considers it merits their attention.)

(b) licensing functions under the Gambling Act 2005 including the setting of fees under Section 122 of the Act.

## **Alcohol & Entertainment Licensing Sub-Committees**

Constitution: To meet as and when required and to consist of 3 Members and Substitute(s) selected on each occasion by the Director of Growth and Place from the 10 members of the Alcohol & Entertainment Licensing Committee.

## Terms of Reference

1. To determine the following under the Licensing Act 2003 including the imposition of appropriate conditions on Licences:-
  - a) Applications for personal licences – if a Police objection
  - b) Applications for personal licences with unspent convictions – all cases
  - c) Applications for Premises Licences/Club Premises Certificates – if an adverse relevant representation subsists\*
  - d) Applications for provisional statements – if an adverse relevant representation subsists\*
  - e) Applications to vary Premises Licences/Club Premises Certificates – if an adverse relevant representation subsists\*
  - f) Applications to vary Designated Premises Supervisors – if a Police objection
  - g) Applications for transfer of Premises Licences – if a Police objection

- h) Applications for Interim Authorities – if a Police objection
- i) Applications to review Premises Licences/Club Premises Certificates – if an adverse relevant representation subsists\*
- j) Decisions to object when Local Authority is a consultee and not the relevant authority considering the applications – all cases
- k) Determinations of an objection to a Temporary Event Notice – all cases

(\*Most cases will be considered by a Sub Committee but the Director of Growth and Place may refer the determination of a case to the Alcohol & Entertainment Licensing Committee instead if he considers it merits their attention).

2. To determine the following under the Gambling Act 2005 including the imposition of appropriate conditions on licences:-

- a) Applications for premises licences – where representations have been received and not withdrawn
- b) Application for a variation to a licence – where representations have been received and not withdrawn
- c) Applications for a transfer of a licence – where representations have been received and not withdrawn
- d) Application for a provisional Statement – where representations have been received and not withdrawn
- e) Review of a premises licence
- f) Application for club gaming/club machine permits – where objections have been made and not withdrawn
- g) Cancellation of club gaming/club machine permits
- h) Decision to give a counter notice to a temporary use notice

## **Standards Committee**

Constitution: 7 members of the Council

3 parish councillors are co-opted in a non-voting capacity

The Independent Person(s) appointed by the Council in accordance with section 28(7) of the Localism Act 2011 are invited to attend meetings of the Committee in an advisory capacity

The Chairman and Vice-Chairman of the Committee will be appointed by the Council from the district council members of the Committee.

Quorum: At least 3 voting members.

Where parish council matters are being discussed there must be at least one parish

councillor present who is not also a district councillor.

Agendas, reports and minutes of the Standards Committee must be circulated to all members of Chichester District Council, and to all parish councils in the district.

#### Terms of Reference

1. To advise the Council on the implementation of its duty to promote and maintain high standards of conduct by members and co-opted members of the authority (section 27 of the Localism Act 2011).
2. To advise the Council as to the adoption and interpretation of a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. To review from time to time that code of conduct and make recommendations to the Council as to its revision or replacement where appropriate.
3. To provide advice to parish councils in the Chichester District as to their obligations in respect of 1 and 2 above.
4. To advise the Council on the implementation of its duty to have in place arrangements under which allegations that a member or co-opted member of the authority or of a parish council in the District has failed to comply with the relevant authority's code of conduct can be investigated and decided upon.
5. To consider and determine, through its Assessment Sub-Committee and Hearing Sub-Committee, allegations that a member or co-opted member of the authority or of a parish council in the District has failed to comply with the relevant authority's code of conduct. In so doing, to seek and take into account the views of an Independent Person appointed by the Council in accordance with section 28 (7) of the Localism Act 2011.
6. To advise on the training of members of the Council and of parish councils in the Chichester District in matters of conduct, and the provision of advice to such members on such issues as the registration and disclosure of interests and general conduct issues.

#### **Assessment Sub Committee**

Constitution: 3 Members of the Standards Committee

An Independent Person appointed by the Council in accordance with section 28 (7) of the Localism Act 2011 is invited to attend meetings of the Assessment Sub-Committee in an advisory capacity.

A parish councillor who is a co-opted member of the Standards Committee is invited to attend meetings of the Assessment Sub-Committee in an advisory capacity, where an allegation against a parish councillor is being considered.

Quorum: 3 members of the Standards Committee as described under Constitution above.

## Terms of Reference

1. To meet as and when convened by the Monitoring Officer in order to make an assessment of a written complaint alleging that a member or co-opted member of Chichester District Council or of any of the parish councils in Chichester District has failed to comply or may have failed to comply with the members' code of conduct.
2. To seek and take into account the views of an Independent Person appointed by the Council in accordance with section 28 (7) of the Localism Act 2011.
3. To determine one of the following:
  - (a) That the complaint be referred to the Monitoring Officer to arrange for the complaint to be investigated; or
  - (b) That the Monitoring Officer be instructed to arrange training of the accused member, conciliation between the complainant and the accused member, or other appropriate steps; or
  - (c) That no action be taken on the complaint; or
  - (d) That the complaint be referred to the Monitoring Officer of another authority where the accused member is no longer a member of CDC or one of the parish councils in the district, but is a member of the other authority.

## Hearing Sub Committee

Constitution: 3 members of the Standards Committee

An Independent Person appointed by the Council in accordance with section 28 (7) of the Localism Act 2011 is invited to attend meetings of the Hearing Sub-Committee in an advisory capacity.

A parish councillor who is a co-opted member of the Standards Committee is invited to attend meetings of the Hearing Sub-Committee in an advisory capacity, where an allegation against a parish councillor is being considered.

The membership may include any members of the Assessment Sub-Committee, which had previously considered the complaint.

Quorum: 3 Members of the Standards Committee as described under Constitution above.

## Terms of Reference

1. To conduct a hearing of a complaint alleging that a member or co-opted member of Chichester District Council or of any of the parish councils in Chichester District has failed to comply or may have failed to comply with the members' code of conduct. In the course of the hearing, the investigating officer, the complainant, the accused member, and an Independent Person appointed by the Council in accordance with section 28 (7) of the Localism Act 2011 shall be entitled to address the Hearing Sub-Committee. Other persons present may address the Hearing Sub-Committee

at the chairman's discretion.

2. To determine following a hearing:

- (a) that the accused member has not failed to comply with the Members' Code of Conduct; or
- (b) that the accused member has failed to comply with the Members' Code of Conduct but no action needs to be taken; or
- (c) that the accused member has failed to comply with the Members' Code of Conduct and that a sanction set out in para 3 below should be imposed.

3. Sanctions

- (a) Publish its findings in respect of the member's conduct.
- (b) Write a formal letter of censure to the councillor found to have breached the Code of Conduct.
- (c) Report its findings to the Council meeting for information.
- (d) Recommend to the member's group, or in the case of un-grouped members recommend to the Council meeting, or in the case of a parish councillor recommend to the Parish Council, that he/she be removed from any or all committees or sub-committees of the Council.
- (e) Recommend to the Leader of the Council, or in the case of a parish councillor recommend to the Parish Council, that the member be removed from the Cabinet or be removed from particular portfolio responsibilities. If the subject member is the Leader of the Council, recommend to the Council that the Leader be removed from office in accordance with Article 6 of Part 2 of the Constitution.
- (f) Instruct the Monitoring Officer to arrange training, mediation or other appropriate remedy for the member.
- (g) Accept the written apology of the subject member to the complainant.

**Investigation and Disciplinary Committee**

Constitution: 5 members of Council, including at least 1 member of the Cabinet.  
2 substitute members of Council. The membership to be politically balanced.

The Committee shall report directly to the Council.

Quorum: Three members of the committee

Terms of Reference

To consider allegations relating to the conduct or capability of the Chief Executive, the Chief Finance Officer and the Monitoring Officer and to take action in accordance with the Council's approved Disciplinary procedure for

All panels and forums shall be chaired by a member of Council and shall be provided with a brief by the Council or the Cabinet in respect of the purpose for which the panel or forum has been formed and the timescales within which they are expected to report.

### **Appeals Committee**

Constitution: 5 members of Council, including at least 1 member of the Cabinet. 2 substitute members of Council.

No member of the Investigation and Disciplinary Committee shall be a member of the Appeals Committee.

The membership to be politically balanced.

The Committee shall report directly to the Council.

Quorum: Three members of the committee

#### **Terms of Reference**

1. To hear appeals against action short of dismissal against the Chief Executive, the Chief Finance Officer or the Monitoring Officer and to confirm the action recommended by the Investigation and Disciplinary Committee or to award no sanction or a lesser sanction than recommended by the Investigation and Disciplinary Committee.
2. To hear appeals from the Senior Officers in respect of disciplinary action up to and including dismissal in respect of disciplinary action where the sanction is dismissal. The Panel will be advised by the Monitoring Officer or Deputy Monitoring Officer with a senior member of Human Resources in attendance. If after hearing the appeal the Panel decides to uphold a decision to dismiss then they must make this recommendation to the Council.
3. To hear appeals from the Senior Officers against being made redundant, in accordance with the Council's Employment Stability Policy. The Panel will be advised by the Monitoring Officer or Deputy Monitoring Officer with a senior member of Human Resources in attendance.

### **Independent Remuneration Panel**

Constitution: at least three local persons who are not councillors

Terms of reference

To advise the Cabinet and the Council on the payment of allowances to councillors and co-opted members in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 as amended.

### **Parish Remuneration Panel**

Constitution: the same Members as the Independent Remuneration Panel

Terms of reference

To advise parish councils in Chichester District on the payment of allowances to councillors in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 as amended.

## **Panels and Forums (appointed by the Cabinet)**

### **Panels:**

Are internally constituted and have specific objectives. Panels comprising mainly of elected councillors may have delegated authority (executive panels) to make decisions, depending on the individual terms of reference

### **Forums:**

Are to be used to inform the ongoing policy debate from an external perspective. As part of the Council's commitment to open governance and consultation, it will seek the view of a wide range of community interests. One way of securing this objective will be by bringing together a number of interested parties to inform different aspects of policy formulation.

### **Boundary Review Panel (appointed by the Council)**

Membership: Six members of the Council

Broad Objectives

To consider and advise the Council on matters relating to electoral areas as and when the need arises.

### **Business Routeing Panel**

Membership: Leader, Deputy Leader, Leader of the Opposition, Leader of Corporate Governance and Audit Committee, Leader of Overview and Scrutiny Committee and Chairs of all Panels which report directly to Cabinet.

Broad Objectives

To consider the council's work programme and progress on significant projects.

### **Development Plan and Infrastructure Panel (Non-Executive)**

Membership: Cabinet Member for Planning Services (Chairman of Panel), Leader of the Council, and up to eight other District Council members

Terms of reference:

To advise the Cabinet on:

- 1) The Local Plan and in particular:
  - a) The Statement of Community Involvement
  - b) The Local Development Scheme
  - c) Any Development Plan Documents (including Site Allocations Documents and the Local Plan Review)
  - d) Any Supplementary Planning Documents
  - e) The responses to representations made with regard to any consultations related to the above
  - f) The Authority's Monitoring Report (including the 5 year housing land supply position).

- 2) Neighbourhood Plans and in particular:



- a) The contents of Examiners' Reports and their recommendations (including decisions to proceed to referendum and whether the neighbourhood area as designated is the appropriate geographical area for those eligible to vote).

3) Strategic Planning and in particular:

- a) Any documents produced by the Coastal West Sussex and Greater Brighton Strategic Planning Board
- b) Any planning policy documents produced by local planning authorities, groups of authorities or other partnerships (such as Local Enterprise Partnerships) that effect the economic, social or environmental well-being of Chichester District
- c) The responses to representations made with regard to any consultations related to the above.

4) Infrastructure Planning and in particular:

- a) The prioritisation of infrastructure and funding within the plan area and co-ordination with key partners
- b) The phasing, timing and delivery of infrastructure to support growth identified in the Local Plan
- c) The draft Infrastructure Business Plan and its subsequent annual review including allocation of Community Infrastructure Levy (CIL) receipts
- d) Any review of the CIL charging schedule or its application
- e) The responses to representations made with regard to any stakeholder consultation related to the above
- f) The Council's capital programme where related to infrastructure planning issues.

5) Other relevant planning policy and infrastructure related matters. In addition the Panel will monitor progress of:

- 1) Neighbourhood Plans
- 2) The Local Plans of other authorities (including the West Sussex Minerals and Waste Plans)
- 3) The development of the evidence base in relation to the review of the Local Plan.

It should be noted that there will be occasions that due to the need to respond quickly items may have to be taken directly to Cabinet.

## **Economic Development Panel**

**Membership:** Politically balanced and geographically spread representation across the district consisting of:

Chairman – Cabinet Member for Growth, Place and Regeneration.

Other Members - Seven members appointed by the Cabinet on the recommendation of the Cabinet Member for Growth, Place and Regeneration.

WSSC Officers to be invited when information on joint economic projects/Growth Deal projects are on the Economic Development

Panel agenda.

**Frequency of meetings :**

Quarterly and at other times as necessary in agreement with the Chairman.

**Purpose:**

The Economic Development Panel was established by the Cabinet in July 2021. The panel aims to oversee the Economic Recovery Action Plan and to advise cabinet on Economic Strategy and Policy.

**Objectives:**

- Advise the Cabinet on; progress of the Economic Development Strategy, Inward Investment Strategy, the Southern Gateway Project and regeneration projects, local Economic data and new economic projects.
- To monitor the progress of the Economic Recovery Plan linked to the pandemic and agree any remedial action if required.
- To monitor the agreed projects with WSCC as part of the 'Growth Deal' currently a) Southern Gateway Regeneration Project b) the Chichester Vision c) Northern Gyratory Project d) Gigabit West Sussex Fibre Broadband.
- To agree any future WSCC 'Growth Deal' projects and recommend these to Cabinet for approval.
- To consider opportunities for joint initiatives and partnership working.
- Examine any appropriate new funding opportunities to progress projects.

The panel will liaise closely with the Chichester City Vision Delivery Steering Group with member and officer representation between the two groups.

**Accountability:**

Any action or recommendation will be reported through the appropriate CDC decision making process for approval i.e. Cabinet and or Full Council

**Review:**

The terms of reference will be reviewed on an annual basis by the panel and any recommended changes will be referred to Cabinet for approval.

**Grants and Concessions Panel (Non-Executive)**

**Membership:**

*Chairman* - An Executive Member appointed by the Cabinet.  
*Other members* - Seven other District Council members

**Frequency:**

Up to five times per annum

**Broad Objectives**

1. To consider and make recommendations to the Cabinet Member for Community Services and Culture in respect of applications for financial assistance towards the costs incurred by local groups and organisation on capital projects or operational expenses in providing sports, social, recreational, musical, artistic, community facilities and environmental improvements.
2. To consider and make recommendations to the Cabinet Member for Community

Services and Culture in respect of applications for grant relief for all or part of the amount of non-domestic rates payable by certain non-profit making bodies and rural general stores, post offices, public houses and petrol filling stations.

3. To consider and make recommendations to the Cabinet Member for Community Services and Culture in respect of applications for business grants.
4. In respect of grants funded from the New Homes Bonus:
  - To consider and make recommendations to the Cabinet Member for Community Services and Culture in accordance with the direction set by Cabinet, and the New Homes Bonus Policy.
  - Meet at least once a year to consider applications from Parish Councils.
  - Detail a process for Parishes to follow to identify projects for consideration with any supporting guidance necessary to assist.
  - Highlight exemplar projects that typify the anticipated use of New Homes Bonus funds

Note: Applications for capital and revenue grants up to a value of £500 are delegated to the relevant Cabinet Member.

5. To consider and make recommendations to the relevant Cabinet member in respect of applications by members of staff to the Landlord Accreditation Scheme

Applications are to be considered in accordance with the eligibility criteria and conditions which are relevant to each form of grant.

### **Joint Employee Consultative Panel (Non-Executive)**

Membership: *Elected councillors* - Cabinet Member for Corporate Services and four other District Council members

*Employees* – Eight (where possible to be two from Chichester Contract Services, and six from East Pallant House, including Careline and the Novium Museum. The staff representatives must be serving employees but not necessarily accredited representatives appointed by the recognised trade unions.

Quorum: The quorum shall be two councillors and three staff representatives. Any member of the Panel may appoint a substitute representative to attend during his/her absence by notifying Democratic Services who will seek agreement from the Chairman.

### **Broad Objectives**

The purpose of the Panel shall be:

1. to promote good employee/employer relations at Chichester District Council

2. to enable dialogue on issues facing the authority with significant staffing implications (in addition to the formal channels of dialogue with the recognised trade unions)
3. to fulfil the council's statutory obligations for workforce consultation to consider issues placed before it by any committee created as a statutory safety committee for the purposes of the Safety Committee Regulations 1977, the Health and Safety at Work Act etc. 1974 and the Safety Representatives and Safety Regulations 1977
4. Any issue relating to an individual (e.g. discipline, promotion or efficiency) shall be outside the scope of the Panel's terms of reference

### **Strategic Risk Group**

**Membership:** Three members of the Cabinet appointed by the Leader to include the Cabinet Member with responsibility for risk and governance.  
Three members of the Corporate Governance and Audit Committee

**Frequency:** At least twice a year with the Strategic Leadership Team (SLT)

#### **Broad Objectives**

1. To consider any strategic and operational risks, the associated controls, management and any mitigation.
2. To review previously identified strategic risks and give detailed consideration of any newly identified risks to be incorporated in the report to Corporate Governance & Audit Committee

### **Environment Panel – Terms of Reference**

**Membership:** Chairman – Cabinet Member for Environment and Chichester Contract Services

Other members – five members appointed by the Cabinet on the recommendation of the Cabinet Member for Environment and Chichester Contract Services

**Frequency:** Quarterly and at other times as necessary

#### **Broad Objectives:**

- To advise the Cabinet on UK waste strategy and its implementation to the Council.
- To consider an action plan aiming to achieve the EU and national recycling and waste minimisation targets.
- To take account of the work of the West Sussex Waste Partnership in developing a county-wide Waste Strategy for waste management; and
- To advise the Cabinet on environment and climate change strategy.

- To identify and evaluate the priority areas for delivering carbon reductions as outlined in the Committee on Climate Change (CCC) 2018 report, "Committee on

## Climate Change Report on Net Zero target”

- To identify the priorities for a new Climate Change Action Plan and the resources necessary to deliver climate change work.
- To identify funding options for carbon reduction initiatives, including the use of the Zero Carbon Graylingwell (ZCG) fund.
- To advise on and monitor implementation of the Fly tipping and Litter Action Plan.
- To advise on and monitor implementation of the Single Use Plastics Action Plan.
- To consider and advise on a refreshed Air Quality Action Plan.
- To consider opportunities for joint initiatives and partnership working in support of these broad objectives.

## **Section 3 – Delegated Powers of Staff**

### **General Provisions**

1. A Senior Officer or other person is authorised to exercise such powers as are shown in this scheme of delegation including those reasonably implied or reasonably incidental to the matters specified.
2. Exercise of the powers is without prejudice to the right of the Council to withdraw or amend any such power, and the person with a delegated power may decline to exercise it and refer the decision to the appropriate Committee.
3. In addition to these delegated powers, powers are also exercisable by officers through Financial Regulations, Contract Standing Orders, and elsewhere in this Constitution.
4. The delegated powers shall be exercised in accordance with Council policy and Standing Orders, Financial Regulations and any other guidance given by a Chief Officer.
5. Any power delegated to a Senior Officer may be exercised by any other Senior Officer or by another employee nominated by a Senior Officer.
6. Each Senior Officer shall be a proper officer for any purpose required by a statute or statutory instrument which is not specified in this scheme of delegation to officers.
7. Where a power delegated to an employee is expressed to be exercisable following consultation with the Chairman of a Committee, in the absence of that Chairman the consultation shall take place with the Vice-Chairman.
8. Where a power delegated to an employee is expressed to be exercisable following consultation with a Cabinet member with portfolio responsibilities, in the absence of that member the consultation shall take place with the Leader or Deputy Leader in his absence.

9. A reference to any statute or regulation or similar includes any subsequent amendment or replacement.
10. References to Senior Officers are references to the Chief Executive, the Executive Director/Deputy Chief Executive and Directors.
11. Authorisations for Covert Surveillance. The officer delegations and responsibilities for the use of the powers provided by the Regulation of Investigatory Powers Act 2000 shall be those set out in the Council's approved Regulation of Investigatory Powers Act Policy.

### **Any Senior Officer**

1. To make urgent decisions following consultation with the Leader or Deputy Leader of the Council and the Chairman of the Overview and Scrutiny Committee on any matters where it is not practicable to refer these to a meeting of the Council, the Cabinet or other Committee provided that a full report on any decisions taken shall subsequently be made.
2. In the absence of the Monitoring Officer or Chief Finance Officer and their appointed deputies to exercise all powers delegated to them so far as the law permits.
3. To act as an authorised Deputy Electoral Registration officer, as appointed by the Returning Officer in accordance with Section 52 Representation of the People Act 1983.
4. To authorise and issue any documents for the purposes of any of the Council's functions, including all court proceedings.
5. To authorise any action under Council byelaws including prosecution.
6. To authorise the spend of section 106 monies of under £50,000 following consultation with the relevant cabinet member and nominated ward member.
7. To affix and attest the seal of the Council to any deed or other document.
8. To progress individual asset renewal projects funded from the Asset Renewal Programme subject to a maximum value of £175,000, in conjunction with the Chief Finance Officer.
9. (a) To approve requests for termination of employment on grounds of redundancy or efficiency of service in consultation with the Chief Finance Officer (except for members of the Corporate Management Team) providing that the costs of such requests pay back within a two year period.
- (b) To enact efficiency or redundancy retirements (when Cabinet authorisation exists) and flexible employment contracts within approved employment policy.
- (c) to approve requests for flexible retirement (except for members of the Corporate Management team) in accordance with the Council's policy providing that the costs of such requests pay back within a two year period.

10. To exercise the power of the right to enter and survey land pursuant to Section 172 of the Housing and Planning Act 2016 on notice to the owners of the land.

### **Chief Executive**

1. To act as consultee to police for authorisations to utilise the police power to disperse groups under section 30 of the Anti-Social Behaviour, Crime and Policing Act 2014.
2. To:
  - (a) issue closure notices (including amendment or cancellation of such notices) under sections 76 to 79 Anti-social Behaviour, Crime and Policing Act 2014 and related sections of that Act;
  - (b) authorise Environmental Health Officers to exercise the power or duty of the Chief Executive under sections 76 to 79 and related sections of the Act and;
  - (c) appoint appropriately qualified persons as Proper Officers, Alternative Proper Officer and Authorised Officers to carry out the functions of Consultant in Communicable Disease Control.
3. As Returning Officer and Electoral Registration Officer (ERO) to be responsible for all staffing and expenditure decisions in relation to the administration of the election, including the appointment of deputy ROs and deputy EROs.
4. To determine without prejudice payments or other benefits in excess of £500 in cases of maladministration or complaints.

### **Strategic Leadership Team**

The Council's Strategic Leadership Team (SLT) comprises the Chief Executive and Directors.

The team shall take legal advice as required.

The SLT will provide the Council with accurate information, legislative interpretation and policy formulation advice in respect of existing and proposed policies. In so doing, SLT will combine the talents, skills and knowledge of the team to continuously review and improve Council services. It will provide the vision, leadership and motivation to the Council's wider workforce.

The SLT is responsible for the efficient and effective delivery of the Council's services and approved policies. The SLT will advise and report on the following:-

1. The impact of Government guidelines and legislation
2. The corporate impact of new policy proposals
3. The effectiveness of existing partnerships from both productive and financial perspectives
4. The estimated benefits and resource implications of proposed partnerships
5. The capacity to deliver corporate objectives
6. The effectiveness of performance against project plans & statutory indicators
7. Employment trends and challenges
8. Cultural and personal development of officers
9. Best practice within the Local Government sector
10. Any actions arising from the monthly Health & Safety Report and strategic Health &

Safety issues that any Senior Officer wishes to raise.

In order to achieve the above objectives each member of SLT will:

- a. Ensure that corporate messages are effectively relayed to their staff
- b. Promote a culture of performance awareness to staff
- c. Show a personal commitment to the corporate culture of the Council
- d. Participate in cross-section working
- e. Exchange best practice

### **Common Provisions of Delegations to each Director**

#### **General**

1. Any relevant delegations listed above under paragraphs 'General Provisions' and 'Any Senior Officer'.
2. To take all necessary action for the economic, efficient and effective day to day management, administration and supervision of their service.

#### **Staffing**

3. To appoint officers within the approved budget and in accordance with the Council's grading policy for their service.
4. To have the discretion to make minor variations to the conditions of service of officers within his Service where this is considered to be necessary within the overall staffing policies approved by the Council and with the agreement of the Director of Corporate Services.
5. To approve grading changes subject to equal pay legislation and the Council's HAY job evaluation processes.
6. To authorise any necessary payments for overtime work in accordance with conditions of service; exceptions with the agreement of the Director of Corporate Services.
7. To approve the carry-over of leave entitlements to the following year, subject to Council policy.
8. To take any action, including suspension or dismissal of an employee, under the jointly agreed Disciplinary Codes.
9. To approve changes to the establishment structure subject to budgetary provision and consultation with the Director of Corporate Services.
10. To agree requests for part-time working and permanent home working.
11. Classification of car users for the purposes of payment of travelling allowances following consultation with the Director of Corporate Services.
12. Payment of professional fees in accordance with the Council's policy.
13. To terminate employment during, or to review salary on completion of, probationary periods following consultation with the Director of Corporate Services.



14. To authorise salary increments including accelerated increments under the N.J.C. Scheme of Conditions of Service or any other local conditions ( following consultation with the Director of Corporate Services).

### **Miscellaneous**

15. To administer formal cautions within the Guidelines set out in Home Office (Circular 16/2008 or any new Guidelines from time to time issued by the Home Office) in consultation with any Solicitor or Barrister employed by the Council.
16. To exercise statutory powers of entry and inspection for the purposes of any functions performed by his service.
17. To serve requisitions for information as to ownership, occupation or other interest in land for the purposes of any of the functions performed by his service.
18. To authenticate any documents necessary for the exercise of the delegated powers described above.
19. To sign Statements of Truth in civil proceedings as required by Part 22 of the Civil Procedure Rules 1998.
20. To appoint consultants and contractors within budgetary provision.
21. To decide in consultation with the Director of Corporate Services the response (including charges) to requests under the Freedom of Information Act 2000 where the Council's costs are estimated to be above or below £450.
22. To decide in consultation with the Director of Corporate Services the response (including charges) to requests under the Environmental Information Regulations.
23. To decide whether to apply the Standard charge or any return on investment under the Re-use of Public Sector Information Regulations 2005, in consultation with the Director of Corporate Services.
24. To accept delegation of executive functions to or from another local authority or public agency provided that budget is available.
25. To manage the day to day arrangements relating to agency arrangements with partners and other organisations once approved by the Council.
26. To set fees and charges in line with the fees and charges policy.
27. To determine without prejudice payments or other benefits up to £500 in cases of maladministration or complaints.

### **Director of Corporate Services Property**

1. To submit applications for planning permission, listed building consent and other necessary consents in respect of:
  - (a) any works included in the approved Capital or Revenue programme; and
  - (b) Any other matter which has been agreed in consultation with the Chairman of the Cabinet and the relevant Ward Member(s).

## **Party Walls**

2. Appointed as the appointing officer within the meaning of Section 20 of the Party Wall Etc. Act 1996. These powers may also be exercised by the Building and Facility Services Manager.

## **ICT**

3. To be responsible for the delivery of the Council's Digital Access Strategy.

## **Data Protection Acts**

4. To ensure the Council complies with the statutory requirements as defined within the GDPR, Data Protection Act 1998 and 2018 or any related legislation.
5. To amend and update the Council's Document Retention Guidelines and Register of Processing to reflect legislative and operational needs.

## **Freedom of Information Act 2000**

6. To ensure the Council complies with statutory requirements as defined within the Freedom of Information Act 2000 and Environmental Impact Regulations.
7. To review the handling of issues and of decisions taken in accordance with the Freedom of Information Act in the event of a complaint being received following a request for information.

## **Employment**

8. To determine approval for the following:-
  - a) Expenditure to be incurred in removal or disturbance in consultation with the appropriate Director.
  - b) Special leave arrangements for officers in consultation with the relevant Director where they exceed defined policy.
  - c) Removal of work/qualification bars in salary scales in consultation with the relevant Director.
  - d) Early retirement on grounds of ill health.
  - e) Honorarium or ex-gratia payments up to a maximum of £1,000 in consultation with the relevant Director (and up to £3,000 following consultation with the Cabinet Member for Corporate Services) subject to budgetary provision being available.
9. To vary or apply subsistence allowances, salaries, long service awards and other conditions of employment as may be affected by national determination or local agreements.
10. To determine the application and interpretation of the National and Local Conditions of Service.

11. To administer the Council's training policy.
12. To avert or contain local industrial action.
13. To be the nominated officer for the Council to contact the Police in connection with the disclosure of criminal records in respect of certain prospective employees as identified under the Home Office Regulations.
14. To designate "politically restricted" posts under the Local Democracy, Economic Development & Construction Act 2009.
15. To administer all of the Council's employment policies.
16. To administer the Council's equalities policy.
17. To determine the detail and the amounts payable up to the maximum limits set out in the Assisted House Purchase Scheme Policy (such limits being adjusted by house price fluctuations on 1st April each year).
18. To approve future minor changes to Human Resources policies, including those of a legislative nature, after consultation with the Cabinet Member for Corporate Services and, if appropriate, the Joint Employee Consultative Panel.

### **Borrowing and Investment**

19. To deal with the following:-
  - (a) The raising and repayment of loans and all other debt instruments including bank and overdraft arrangements on appropriate terms up to any maximum amount authorised by the Council.
  - (b) Investment of surplus funds of the Council, including negotiations and agreements with brokers and fund managers, in accordance with policy guidelines approved by the Council.
  - (c) To enter into leasing and contract hire agreements for the acquisition of vehicles, machinery and equipment on such terms as are considered appropriate.

### **Insurances**

20. To deal with the following:
  - (a) Insurance of the Council's property and other risks, and annual review of sums insured.
  - (b) Negotiate in respect of claims on or by the Council.

### **House Purchase Interest Rates**

21. Determination of local average rates of interest in accordance with the Housing Act, 1985, together with the rate of interest on sums outstanding prior to the

commencement of the provisions of the Act.

### **Car and Staff Transport Loans**

22. Granting of loans to officers in accordance with the schemes approved by the Council.

### **Payment of Accounts**

23. (a) Payment of all accounts that are considered to be in respect of liabilities properly incurred and not previously discharged.
- (b) Payment of annual subscriptions and contributions, where they are calculated on a previously approved basis, to organisations for which the Council has approved membership.

### **Income**

24. Write-off of outstanding accounts, which are considered to be irrecoverable, subject to members being informed of the total amount of such write-offs.

### **Stocks, Stores and Inventory Items**

25. Write-off of deficiencies not in excess of £3,000 for any one commodity where adequate action has been taken to attempt to recover.

### **Rate Relief**

26. To approve, subject to the Grants and Concessions Policy:
- a) Rate Relief for not for profit organisations, up to 75% and where the cost to the Council is not greater than £500.
- b) Rate Relief for Rural businesses.

### **Health and Safety**

27. To safeguard the health, safety and welfare of staff subject to the statutory responsibility of individual Managers under health and safety legislation.

### **Tax affairs**

28. To manage the Council's tax affairs including VAT

### **Members' Allowances**

29. (a) To decide whether meetings, visits or other arrangements should be treated as "approved duty" within the context of the Scheme of Members' Allowances.
- (b) To authorise the payment of travelling and subsistence allowances for training and educational conferences and meetings subject to application for such authorisation having been made in advance of the event.

## **Miscellaneous**

30. To act as the Proper Officer for the purposes of the Local Government (Committees and Political Groups) Regulations 1990.
31. To determine (in consultation with the Chairman of the Council if the petition exceeds 1,000 signatures) whether a petition meets the criteria set out in the Council's petition scheme.
32. To determine applications for the temporary closure of roads (in consultation with the relevant Ward Members).
33. To respond to proposals from the West Sussex County Council in respect of proposed Traffic Orders (in consultation with the relevant Ward Members).

Powers 14, 16, 17 and 18 may also be exercised by the Legal and Democratic Services Divisional Manager.

## **Director of Growth and Place Property**

1. To make decisions on requests by lessees for the Council's consent as freeholder where this is required by any clauses contained in leases.
2.
  - a) To approve leases, licences, wayleaves and easements of land up to annual income level or consideration of £100,000 in value in each case.
  - b) To approve sales and easements of land which has been declared surplus by the Cabinet up to a consideration or market valuation of £250,000 in each case.
3. Subject to the terms of the Grants and Concessions Policy and associated criteria, to approve:
  - Concessionary rents at St James Industrial Estate for up to two years
  - The renewal of leases at Council owned premises where concession reductions have been achieved
4. To take any action including court proceedings in consultation with Legal Services as appropriate which might be required in respect of trespass to the Council's property.
5. To submit appeals and to agree proposed assessments in respect of the revaluation of non-domestic property.
6. To agree rent reviews and re-gearing up to a maximum annual rental of £100,000.
7. To negotiate terms on behalf of the Cabinet to take a lease, licence or to acquire the freehold of land or premises where a service need has been identified and budgetary provision made up to a maximum annual expenditure or consideration of £100,000.
8. To submit applications for planning permission, listed building consent and other necessary consents in respect of:

- (a) any works included in the approved Capital or Revenue programme; and

- (b) any other matter which has been agreed in consultation with the Chairman of the Cabinet and the relevant Ward Member(s).
  - (c) in respect of any property declared surplus to the Council's requirements.
9. To respond to notices served on the Council, as landowner, under Section 65 of the Town and Country Planning Act 1990.
  10. To authorise the service of notice of the Council's intention to determine leases, with a view to their renewal on fresh terms if the premises are not required for use by the Council (terms to be approved by the Cabinet if exceeding an annual value of £60,000).
  11. To authorise the service of notices and counter-notices under Part II of the Landlord and Tenant Act 1954 and to determine the contents thereof.
  12. To authorise the taking of action, including legal proceedings, for the recovery of rent arrears or the possession of land or other property in cases of non-payment of rent or other breaches of the terms of leases or licences.
  13. To act as the Appointed Valuer for Asset Valuation purposes.
  14. To act as the Council's Disabled Access Liaison Officer or to designate another Officer to act in that capacity.
  15. To make minor changes to the Asset Management Plan that do not involve policy considerations.

Note: All powers contained within 1-15 may also be exercised by the Council's Valuation & Estates Manager.

### **Transportation and Highways**

16. To consider, and make observations to the appropriate highway authorities on, any matters affecting public transport, highways and car parking.
17. To deal with all matters relating to the provision and management of public car parks.
18. To give appropriate notice of any approved revised charges or changes to parking payment methods pursuant to the Off-street Parking Places (Consolidation) Order 2015 and the Road Traffic Act 1984.
19. To deal with matters relating to the Council's direct responsibilities for certain footway lighting in the City of Chichester.
20. To be responsible for the implementation of the Council's Car Parking Strategy.
21. To act as agent for West Sussex County Council in relation to Civil Parking Enforcement (CPE) for all purposes including the issuing, processing and authorizing cancellation of any Parking Charge Notice and to make all decisions relating to any associated appeals or complaints in relation to CPE.

22. To adjust pitch fees for farmers markets having regard to local circumstances and the most commercially viable rate. (*Cabinet minute 515. 3.12.13*)

### **Leisure**

23. To make decisions on casual, short term lettings or negotiate hire fees for the following purposes:
- (a) Use of sports pitches.
  - (b) Use of parks, recreation grounds and other premises for special events.

### **Pallant House Gallery**

24. To give written permission as respects the removal and loans of items from the collection at Pallant House to outside bodies in consultation with the Director of Pallant House Gallery.
25. To agree works of repair, restoration and conservation in respect of articles in the Hussey Collection in consultation with the Director of Pallant House Gallery.

### **Economic Development**

26. To approve grants for new and existing businesses under the Enabling Grants Scheme or such other similar grants scheme that may from time to time be available.

### **Licensing Act 2003**

27. To administer the processes under the Licensing Act 2003.
28. To determine the following matters under the Licensing Act 2003 including the imposition of appropriate conditions on Licences:-
- a. Applications for Personal Licences – if no objection made
  - b. Applications for Premises Licences/Club Premises Certificates – if no adverse relevant representation made
  - c. Applications for Provisional Statements – if no adverse relevant representation made
  - d. Applications to vary Premises Licences/Club Premises Certificates – if no adverse relevant representation made
  - e. Applications to vary Designated Premises Supervisor – all cases unless there is a Police objection
  - f. Request to be removed as Designated Premises Supervisor – all cases
  - g. Applications for transfer of Premises Licences – all cases unless there is a Police objection
  - h. Applications for interim authorities – all cases unless there is a Police objection

- i. Decision on whether a representation is relevant – all cases
  - j. Decision on whether a representation is frivolous or vexatious etc. – in consultation with Chairman of the Alcohol & Entertainment Licensing Committee
  - k. Applications to grant AWP (Amusements with Prizes Permits) – most cases he may refer the determination of a case to the Alcohol & Entertainment Licensing Committee instead if he considers it merits their attention
  - l. To delegate to his staff such of the above activities as he considers appropriate.
  - m. To determine if applications under the Act are incomplete or incorrectly completed and to return them to the applicant and not enter them in the Licensing Register.
29. To determine if a case under the Licensing Act 2003 should be determined by the Alcohol & Entertainment Licensing Committee instead of an Alcohol & Entertainment Licensing Committee Sub Committee.
30. To defend all appeals to the Magistrates Court against the decisions of the Alcohol & Entertainment Licensing Sub Committees but he or his representative in consultation with the Legal Services, and if practicable the Chairman or another Member of the Sub-Committee, may mediate Sub-Committee hearing determinations where proposed changes are wholly of a minor or legally technical nature.

### **Supervision of Hackney Carriage and Private Hire Drivers' Licences**

31. In consultation with the chairman or vice-chairman of the General Licensing Committee or, in their absence, another committee member, to suspend licences for not more than three months in circumstances where, having regard to the Statement of Policy and Guidelines, he considers that or is aware that:
- (a) a licence holder has been convicted of an offence involving dishonesty, indecency or violence;
  - (b) a licence holder who has been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976 relating to Hackney Carriage and/or Private Hire Drivers Licences;
  - (c) there is any other reasonable cause so to do;
- and having taken action to suspend the licence, the matter shall, if necessary, be reported to a meeting of the General Licensing Sub-Committee.
32. (a) Following consultation with Legal and Democratic Services Divisional Manager and General Licensing Committee Chairman or Vice-Chairman, to make decisions relating to immediate suspension or revocation of Hackney Carriage and Private Hire drivers' licences detailed at s.52 of the Road Safety Act 2006.



- (b) All applications for a further Hackney or Private Hire Drivers' licence following an immediate revocation should be heard by the General Licensing Committee or a Sub-Committee thereof and that no delegation to officers for such applications shall be permitted by the authority.

### **Director of Housing and Communities Housing**

1. To exercise the following powers and duties for the provision by the Council of housing accommodation and ancillary services:-
  - (a) To undertake management of all dwellings, or other property owned or leased by the Council within the General Revenue Account for the purpose of assisting homeless persons including the letting and control of tenancies and licences, the collection of rents, fees and other charges, and the maintenance, repair and improvement of all such property.
  - (b) To be responsible for undertaking internal repairs, maintenance and decoration to premises used for the operational purposes of the housing service in accordance with the approved revenue programme.
  - (c) To exercise other functions ancillary to the provision and use of Council housing property.
2. To undertake the following functions for assisting the provision of housing accommodation in other ways:-
  - (a) The sale of dwellings in pursuance of the statutory rights of tenants or otherwise in accordance with the Council's policy.
  - (b) The acquisition and letting of dwellings leased to the Council by other property owners.
  - (c) The fulfilment of the Council's statutory responsibilities towards homeless persons, including accommodation in appropriate cases.
3. To approve applications to be placed on the Housing Register which fall within the criteria for acceptance.
4. To make nominations to Registered Providers and other Agencies in accordance with the Council's approved housing allocation policies.
5. To determine housing applications within the terms of the current homelessness legislation.
6. To issue or to authorise the issue of Notices of Seeking Possession and Notices to Quit.
7. To authorise the commencement of proceedings to recover possession of properties and for the recovery of sums lawfully due.
8. To authorise payments on registered providers schemes as approved by the Cabinet (in consultation with the Director of Corporate Services).
9. In consultation with legal services, to seek Court injunctions against tenants or licensees causing serious nuisance or annoyance.

10. In consultation with legal services, to authorise legal proceedings for prosecution of offences arising from the unlawful eviction or harassment of residential occupiers.
11. In respect of garage sites of HydeMartlet and following consultation with the Cabinet Member for Housing and Planning, to give the Council's consent pursuant to the large-scale voluntary transfer (LSVT) agreement, to redevelopment of such of the garage sites provided the proposal satisfies the criteria in the protocol relating to such development.
12. a) In respect of amenity land of HydeMartlet and following consultation with the Cabinet Member for Housing Services to give the Council's consent pursuant to the land transfer and LSVT agreement:
  - (i) not to enforce the provisions of the transfer in respect of no development on amenity land and
  - (ii) to the use of that land for the purpose of car parking that is considered to satisfy the criteria in the Amenity Land Protocol.
- b) In respect of amenity land of HydeMartlet, and following consultation with the Cabinet Member for Housing Services, to give the Council's consent to the development of amenity sites, excluding garage sites, as she considers satisfies the criteria in the approved protocol, unless there are significant objections from the ward member or parish council.
- c) To authorise entering into a Deed of Release for each site and any other related documents, following the grant of planning permission for the consented proposal.
13. In respect of land of HydeMartlet which is restricted under the LSVT to the provision of social housing and following consultation with the Cabinet Member for Housing Services to give consent to the disposal of units on the open market that meet the criteria set out in the Protocol for the Disposal of Open Market Units on LSVT land.
14. To determine, in consultation with the Cabinet Member for Housing Services, applications for grants to fund both additional affordable housing units for commuted sum monies and conversions/extensions to provide for identified housing needs from the existing land bank/gap resources.
15. To determine:-
  - (a) applications from persons for acceptance on to the Council's Housing Register who do not meet the eligibility criteria;
  - (b) review of decisions not to place a person on the Housing Register;
  - (c) review of decisions to remove a person from the Housing Register; and
  - (d) review of unsuccessful applications by persons within Parts VI and VII of the Housing Act 1996 as amended by the Housing Act 2003.

16. In consultation with the Cabinet Member for Housing Services, to make amendments of a non-policy nature to the Housing Allocation Scheme, any such changes to be reported to the Overview and Scrutiny Committee.

### **Private Sector Housing**

17. The provision of professional services and the making of financial assistance to property owners and tenants to assist in the improvement, adaptation, conversion and renovation of dwellings and houses in multiple occupation.
18. To approve applications under the mortgage rescue scheme in consultation with the Cabinet Member for Housing Services.
19. The promotion of energy efficiency measures within the District's housing stock.
20. To determine applications for, and renewal, variation, or transfer of licences in respect of houses in multiple occupation under Part 2 of the Housing Act 2004 and to impose appropriate conditions.
21. To decide on applications for Hazard Prevention Assistance, Accreditations Assistance, Empty Homes Assistance, Conversion Assistance and applications under the Landlord Accreditation Scheme.
22. To determine applications under the Decent Homes Assistance within Council policy.
23. To determine applications under the Decent Homes Assistance which fall outside the normal policy in consultation with the Cabinet Member for Housing and Planning.
24. To determine whether inspection of residential premises is required to identify whether Category 1 or Category 2 hazards exist within residential premises and to undertake the local authority's duties and powers with regard to housing standards.
25. To undertake the local authority's duties and powers with regards to interim and final management orders under part 4 of the Housing Act 2004 and to be appointed the proper officer for the purpose of the powers within Part 7 of the Act.
26. To serve notices requiring abatement of overcrowding of dwellings and houses in multiple occupation.
27. On the breach of any conditions attached to a grant made under the Housing Grants, Construction and Regeneration Act 1996, to approve in special circumstances, where legislation or the Secretary of State for Communities and Local Government allows, and in consultation with the Chief Finance Officer, the waiver of repayment of all or part of the grant monies.
28. To serve notices and in consultation with legal services to take any other action, including the exercise of default powers and recovery of costs in pursuance of any statutory provisions relating to Part 1 (Housing Conditions), Part 2 (Licensing of Houses in Multiple Occupation) and Part 4 (Additional Control Provisions in Relation

to Residential Accommodation) of the Housing Act 2004.

To exercise the enforcement powers reserved by the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014, and as may be amended.

To exercise the enforcement powers for the Smoke and Carbon Monoxide Alarm (England) Regulations 2015

### **Repayment of Disabled Facilities Grants**

29. To determine whether repayment of Disabled Facilities Grants will be required.
30. Appeals against decisions by the Director of Housing & Communities requiring repayment of Disabled Facilities Grants shall be determined by an Executive Director in consultation with the Cabinet Member for Housing and Planning.

### **Crime and Disorder**

31. To undertake the relevant functions under anti-social behaviour legislation including the Crime and Disorder Act 1998, the Anti-social Behaviour Act 2003 and the Anti-social Behaviour Crime and Policing Act 2014 (except those undertaken by the Chief Executive).
32. To authorise the use of all enforcement powers included in the Anti-Social Behaviour, Crime and Policing Act 2014 including the use of Community Protection Notices and Fixed Penalty Notices for breaches of a Public Spaces Protection Order.

### **Community Right to Bid**

33. To determine all nominations made to the Council for Assets of Community Value, under Part 5 Chapter 3 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012:
  - a. By authorising appropriate officers to make decisions on nominations of Assets of Community Value
  - b. To review a listing decision if requested to do so by the then owner
  - c. To request either the Chief Executive, Executive Director/Deputy Chief Executive or the Cabinet to review a decision whether or not to register where the Director of Housing & Communities has been directly involved in the registration decision.

### **Voluntary and Community Sector**

34. To authorise the issue of Service Level Agreements to Voluntary and Community Sector organisations where approval for funding has been granted by the Cabinet or the Grants and Concessions Panel.

## **Safeguarding**

35. To approve minor amendments to the Council's Safeguarding Policy in line with local working arrangements.

## **CCTV**

36. To approve the CCTV Code of Practice following consultation with the Cabinet Member for Commercial Services.

## **Civil Emergencies**

37. To authorise urgent expenditure up to £25,000 (or more in exceptional circumstances) and commit the resources of any Council service if considered necessary in order to deal with a civil emergency and only in the event that he is unable to consult a Chief Officer on the matter – these powers are also exercisable by any Emergency Response Coordinator appointed by a Chief Officer.

## **Director of Planning & the Environment**

### **Development Management**

1. To determine all applications under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and any regulations made under those Acts, except in the following circumstances:-
  - (a) Where a Member of the Council makes a request to the appropriate employee, in accordance with the procedure prescribed for that purpose, that an application should be determined by the Planning Committee, or
  - (b) Where the employee is minded to decide the application contrary to an objection lodged by a statutory consultee or the Parish Council for the area in which the application site is situated. However, this does not apply to applications for householder development (suffix DOM or HOUS), Lawful Development Certificates (suffix ELD and PLD) or for tree works (suffix TPA and TCA), which may be determined by the Director of Planning and the Environment (or his nominee) even where an objection is lodged by a statutory consultee or a parish council. or
  - (c) Where the applicant is a Member or employee of the Council, or spouse or partner
  - (d) Where the decision would be significantly contrary to policy in the Local Plan, or
  - (e) Where the officer recommendation on an application by another Local Authority is to refuse or object.
  - (f) Where the Council is the applicant.

The above circumstances (a) to (f) will not apply (and authority will remain with the Director of Planning and the Environment) if the statutory period for determination of a prior notification or application for prior approval under the Town and Country Planning (General Permitted Development) Order 2015 will expire prior to it being

considered by the Planning Committee as an agenda item (as opposed to a late/urgent item).

2. To make observations on planning and other policy documents prepared for consultation by central government.
3. In respect of agreements under Section 106 of the Town and Country Planning Act 1990:
  - (a) To determine when to seek such agreements and the terms of them in conjunction with a planning application or enforcement matter being dealt with under his delegated powers; and
  - (b) To make reasonable amendments to the heads of terms or detailed terms of such agreements if necessary after they have been approved by the Planning Committee or the Council.
  - (c) to make reasonable formal amendments or variations to completed S106 obligations where circumstances have changed in the intervening period and/or where required by a subsequent decision of the Council in respect of a new planning application for the site, subject to such decisions being reported subsequently to the Planning Committee.
  - (d) To review and determine the level of the S.106 monitoring fee payable.
4. To determine applications made under the Environmental Impact Assessment Regulations as to whether or not an Environmental Statement (including screening and scoping opinions) is required in respect of proposed developments.
5. To carry out Appropriate Assessments under the Conservation of Habitats and Species Regulations 2010.
6. To add, delete, or amend the conditions to be attached to the grant of planning permission authorised by the Planning Committee or Council.
7. To determine the reasons for which planning permission would have been refused where this is relevant to appeals against the non-determination of applications.
8. To suggest appropriate conditions to be imposed on planning permissions and to approve the terms of Section 106 Agreements or unilateral undertakings on appeals in the event that the Secretary of State or his Inspector is minded to grant planning permission.
9. To submit on the Council's behalf observations on applications to be determined by other authorities, except where a Member of the Council makes a request to the appropriate employee, in accordance with the procedure prescribed for that purpose, that such observations should be determined by the Planning Committee.
10. To authorise the making of Tree Preservation Orders and the service of Building Preservation Notices.
11. To determine objections lodged against Tree Preservation Orders.

12. To consider notices of proposed works to trees in conservation areas and to determine whether a tree preservation order should be made.
13. To express observations on consultations by exempted organisations for certificated sites in respect of caravans and camping activities.
14. To deal with requests by exempted organisations for temporary holiday sites.
15. To make Directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 (in consultation with the Leader of the Council).
16. To determine applications for the installation of overhead electricity cables (subject to the same criteria in paragraph 1 (a) to (d) above).
17. To determine, within the statutory time limitation, whether prior approval of the authority is required (in consultation with the Planning Committee Member for the particular area or the Chairman of the Planning Committee), in respect of proposed development under Class A of Parts 6 & 7 and Class A of Part 24 and Class A of Part 31 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.
18. To give or refuse approval under the terms of Class A of Parts 6 & 7 and Class A of Part 24 and Class A of Part 31 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.
19. To discharge conditions attached to permissions or planning obligations.
20. To determine applications made under the Town and Country Planning Act for the following types of proposal:-
  - (a) Planning applications involving the revocation, modification or discontinuance of an existing planning permission without the payment of compensation;
  - (b) Applications for Hazardous Substances Consent.
21. To determine applications for Deemed Hazardous Substance Consent under the Planning (Hazardous Substances) Regulations 1992.
22. To decline to determine applications for planning permission under Section 70A, S70B and S70C of the Town and Country Planning Act 1990 (as amended).
23. To make applications to the Secretary of State or to his Inspector for awards of costs in favour of the Council in respect of appeals under the Town and Country Planning Acts and to settle costs claims awarded against the Council.
24. To authorise in consultation with the Cabinet Member for Housing and Planning any increase in S106 contributions proposed by the Solent Recreation Mitigation Partnership in respect of inflation.
25. To make minor amendments to the Validity Checklist for planning applications in the light of practical experience or changed circumstances.

26. To undertake an annual review and make minor adjustments to the charging scheme for specialist historic environment advice.
27. To approve village design statements as material considerations in the determination of planning applications, after consultation with the Planning Committee.
28. To confirm, in consultation with the Chairman of the Planning Committee, Public Path Diversion Orders made under Section 257 of the Town and Country Planning Act 1990 in the event of no objections being received within the statutory time limit.
29. To undertake an annual review of the S106 monitoring fee and to make subsequent adjustments to this fee.

## **Enforcement**

30. To authorise the issue of Enforcement Notices, Breach of Condition Notices, and Listed Building Enforcement Notices in respect of breaches of conditions imposed on planning permissions and Listed Building Consents.
31. To issue Enforcement Notices and the service of Stop Notices in respect of a breach of planning control and Notices under Section 215 (untidy land) and determine cases where it is not expedient to take action except in cases where a Member of the Council submits a red card. (This delegation may also be exercised by other officers nominated by the Director of Planning and the Environment).
32. To take action in respect of unauthorised placards, posters and, other advertisements, display structures and to remedy defacement of premises under Section 225 of the Town and Country Planning Act 1990.
33. In consultation with Legal Services, to authorise the institution of legal proceedings in respect of unauthorised advertisements, breaches of listed building control and non-compliance with Discontinuance Notices, Enforcement Notices and Breach of Condition Notices or in respect of any other matter within the Terms of Reference of the Planning Committee.
34. To lodge objections against applications for heavy goods vehicle operators' licences.
35. To accept or reject as they think fit such offers as are made under Section 171C(4) of the Town and Country Planning Act 1990 (as amended).
36. To designate authorised officers and to serve Notices of Entry for the purposes of Sections 196A, 324 and 325 of the Town and Country Planning Act 1990, Section 88 of the Planning (Listed Buildings & Conservation Areas) Act 1990, Section 36 of the Planning (Hazardous Substances) Act 1990 and Section 95 of the Building Act 1984.
37. To serve Requisitions for Information as to ownership, occupation or other interests in land for the purposes of any of the functions of the Planning Committee. (This power is also exercisable by Principal Solicitors).
38. To serve Planning Contravention Notices on owners and occupiers of land where it



appears that a breach of planning control has taken place.

39. To authorise the institution of legal proceedings for failure to respond to, or to give satisfactory information required by, Requisitions for Information or Planning Contravention Notices.

### **Community Infrastructure Levy**

40. To undertake duties in connection with Community Infrastructure Levy Liability under Regulations 31 to 34 and 36 to 39 of the Community Infrastructure Levy Regulations 2010 (as amended).
41. To issue Apportionment of Liability Information Notices under Regulation 35 of the Community Infrastructure Levy Regulations 2010 (as amended).
42. To calculate the chargeable amount under Regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended).
43. To undertake duties in connection with relief from the Community Infrastructure Levy under Regulations 41 to 45, 47, 49 to 53, 54A to 54 D, 55 and 57 of the Community Infrastructure Levy Regulations 2010 (as amended).
44. To publish Discretionary Charitable Relief Information under Regulation 46 of the Community Infrastructure Levy Regulations 2010 (as amended).
45. To withdraw charitable relief under Regulation 48 of the Community Infrastructure Levy Regulations 2010 (as amended).
46. To serve Social Housing Information Notices under Regulation 54 of the Community Infrastructure Levy Regulations 2010 (as amended).
47. To Publish Exceptional Circumstances Relief Information under Regulation 56 of the Community Infrastructure Levy Regulations 2010 (as amended).
48. To undertake duties in connection with the application of the Community Infrastructure Levy under Regulations 59 to 62 and 62A of the Community Infrastructure Levy Regulations 2010 (as amended).
49. To undertake duties and powers in connection with charging and collecting of the Community Infrastructure Levy under Regulations 64 to 79 of the Community Infrastructure Levy Regulations 2010 (as amended).
50. To undertake duties and powers in connection with Surcharges and late payment interest under Regulations 80 to 88 of the Community Infrastructure Levy Regulations 2010 (as amended).
51. To undertake duties and powers in connection with CIL stop notices and related enforcement under Regulations 89 to 94 of the Community Infrastructure Levy Regulations 2010 (as amended).
52. To undertake duties and powers in connection with enforcing the collection of money under Regulations 95 to 111 of the Community Infrastructure Levy Regulations 2010 (as amended).

53. To authorise council officers whose duties require the exercise of powers of entry under Regulation 109 of the Community Infrastructure Levy Regulations 2010 (as amended).
54. To undertake duties and powers in respect of reviews, appeals, stop notices and costs under Regulations 112 to 121 of the Community Infrastructure Levy Regulations 2010 (as amended).

### **Building Control**

55. To exercise the following functions relative to the Building Regulations:
  - (a) To administer and enforce the regulations.
  - (b) To pass, or reject, deposited plans in pursuance of any relevant statutory provisions.
  - (c) To make decisions on, or to refer to the Secretary of State, applications for regulations to be relaxed or dispensed with.
  - (d) To engage qualified engineering consultants to check structural calculations.
  - (e) To serve notices and to take any other action in pursuance of Sections 72 (means of escape from fire), 36 (unauthorised work) and 32 (plans of no effect) of the Building Act 1984.
  - (f) To authorise the institution of legal proceedings in respect of any contraventions of Building Regulations.

### **Miscellaneous**

56. To take any action in pursuance of Sections 77 and 78 (dangerous buildings), 79 (dilapidated buildings and sites) and 81 and 82 (notices as to demolition) of the Building Act 1984 and Section 167 of the Highways Act (retaining walls near streets).
57. In consultation with the Cabinet Member for Planning Services to approve the properties to be included in the initial Local Buildings List and to make periodic reviews and adjustments as necessary.

### **High Hedges under Part 8 of the Anti-social Behaviour Act 2003**

58. To deal with all matters relating to High Hedges under Part 8 of the Anti-social Behaviour Act 2003 (as may be amended or extended from time to time).

## Planning Policy

### 59. Neighbourhood Plans

- (a) To determine requests made under the Environmental Assessment of Plans and Programmes Regulations 2004 as to whether or not a strategic environmental assessment (including screening and scoping opinions) is required.
- (b) To approve the designation of neighbourhood areas in accordance with the Neighbourhood Planning (General) Regulations 2012.

and following the Director of Planning and Environment informing the appropriate Cabinet Member and relevant ward member (s):

- (c) To make formal comments on a draft Neighbourhood Plan at Pre-Submission stage and Submission stage;
  - (d) To accept a Neighbourhood Plan submission and, provided that the proposal complies with the relevant legislation, to publicise and consult on the Plan in accordance with the Neighbourhood Planning (General) Regulations 2012;
  - (e) To appoint an Independent Examiner to hold an examination to assess whether the draft plan meets the basic conditions and in exceptional cases to suspend the holding of an examination;
  - (f) Following receipt of the Independent Examiner's report, to publish a decision statement and to make the decision to proceed to referendum where the Independent Examiner's report recommends 'proceed to referendum as submitted' and no significant adverse representations have been made.
  - (g) To publish a Publicity Statement and an Adoption Statement;
  - (h) To carry out such other procedural processes, requirements assessments and determinations as may be necessary in accordance with the Town and Country Planning Act 1990, the Neighbourhood Planning (General) Regulations 2012 and any other relevant regulations to enable preparation of a Neighbourhood Plan.
  - (i) In relation to High Court challenges of any decisions of the Council throughout the neighbourhood planning process, to reply, defend and/or consent to judgement of any claims and to settle any costs claim arising.
60. Following consultation with the Cabinet Member for Planning Services, to approve grants of up to £3,000 to parish councils to cover the cost of assessments required for the delivery of strategic sites where this will be incurred as part of the neighbourhood plan.

61. Supplementary Planning Documents

- (a) To determine the need for Strategic Environmental Assessment and/or Habitat Regulations Assessment through the issuing of a screening opinion following consultation with the statutory agencies.
- (b) To determine the scope of the Strategic Environmental Assessment through the issuing of a draft scoping opinion for consultation and the issuing of the definitive scoping opinion following consultation.
- (c) To publish an Adoption Statement.
- (d) To publish a Consultation Statement.
- (e) In relation to High Court challenges of any decisions of the Council throughout the production of supplementary planning documents, to reply, defend and/or consent to judgement of any claims and to settle any costs claim arising.

62. Following consultation with the Leader and the Cabinet Member for Planning Services to determine the response to consultation on minor and/or urgent planning policy documents from other authorities.

63. Following consultation with the Cabinet Member for Planning Services, to publish for public consultation proposed new or revised Conservation Area Character Appraisals, Management Proposals, Boundaries and Article 4 Directions.

**Environmental Management**

64. To undertake periodic environmental audits covering the state of the local environment.

65. To oversee the monitoring of, and consider initiatives for enhancing, the quality of the natural environment.

**Contaminated Land and other pollution**

66. To take appropriate action including expenditure up to £15,000 to deal with land owned by the Council which is contaminated within the meaning of the Environmental Protection Act 1990 or in respect of other pollution and the management of air quality – such action to be taken in consultation with the Director of Housing & Communities.

**Drainage**

67. The service of notices and enforcement under the Land Drainage Act 1991.

**Oil Pollution**

68. To exercise all powers necessary to act in the capacity of the District Oil Pollution

Officer.

## **Environmental Health**

69. To exercise powers generally under Environmental Protection, Public Protection, Food Hygiene and Food Safety, Licensing, Animal Welfare, Smoke-free, Pest Control and Dog Control legislation, as amended from time to time, and in particular relating to:-
- a. Statutory nuisances.
  - b. Air quality, water quality (recreational and drinking) and pollution control.
  - c. Prevention and control of notifiable infectious diseases.
  - d. The safe production of food.
  - e. Noise control.
  - f. Contaminated land.
  - g. Stray dogs, dangerous dogs and dog fouling.
  - h. The control of vermin and other pests.
  - i. Health Education and development.
  - j. The safety of the public when using or visiting controlled or regulated facilities or activities.
  - k. The health safety and welfare of animals.
  - l. Fraud or deception relating to regulated competition or gaming activities.
  - m. Health, safety and welfare of people at work, at home or in pursuit of leisure.
  - n. Help, support or information to the public in the event of natural or man-made civic emergencies.
70. To make decisions on applications for, and renewal, variation or transfer of, licences, registrations, permits, authorisations, approvals, certificates or designation orders in respect of:
- a) Premises for sale, storage, preparation or manufacture of food.
  - b) Milk distributors or dealers storing or selling milk.
  - c) Game dealers and game keepers.
  - d) Food export certificates and deferred port health inspection of imported foods.
  - e) Offices and shops.
  - f) Zoos, guard dogs and establishments for horse riding, animal boarding, dog breeding, dangerous wild animals, performing animals and pet shops.
  - g) Theatres, cinemas, places of public or private entertainment and indoor sporting events.
  - h) Scrap metal dealers and motor salvage operators.
  - i) Designation of Dog Control Orders for dog fouling.
  - j) Skin piercing activities.
  - k) Knackers' premises.
  - l) Waste disposal processes and processors.
  - m) Chimney heights and furnaces.
  - n) Hackney carriages, private hire vehicles, their drivers and operators.
  - o) Sex establishments.
  - p) Street Collections (subject to the policy guidelines set out in Minute 80(A)(b)(i) of the Council meeting on 25th January 2005).
  - q) House to house collections.
  - r) Society lotteries.
  - s) The use of machines for amusement purposes.

- t) Amusement with prizes.
- u) Pleasure boats and boatmen.
- v) Caravan and camping sites.
- w) Late night refreshment houses.
- x) Processes prescribed under the Environmental Protection Act 1990.
- y) Track betting licences.
- z) Loudspeakers in the street.
- aa) Street trading consents.
- bb) Pools promoters (including in consultation with the Chief Finance Officer the appointment of accountants).
- cc) Environmental Permits.

71. To serve notices and to take any other action, including the exercise of default powers and recovery of costs, in pursuance of any statutory provisions relating to:

- a. The maintenance repair and/or cleansing of defective, stopped up, leaking or overflowing drainage systems, water closets or soil pipes.
- b. Filthy or verminous premises, articles or persons.
- c. Nuisances, drainage of premises and water supplies.
- d. Control of noise, air and other forms of pollution.
- e. Offences relating to burning of certain crop residues.
- f. Food safety and food hygiene, shopping hours and trading.
- g. Breach of licensing, registration authorisation or permit requirements.
- h. Works relating to unoccupied buildings under Sections 29-32 of the Local Government (Miscellaneous Provisions) Act 1982.
- i. Closing Orders in respect of take-away food shops.
- j. Section 76 of the Building Act 1984 (defective premises).
- k. Refuse disposal.
- l. Noise nuisance from domestic premises, vehicles, machinery or equipment in the street.
- m. Part IX of the Highways Act 1980.
- n. Pest Control.
- o. Dog Control.
- p. Vehicle Crime Act offences and motor salvage operators.
- q. Clean neighbourhoods offences including fly tipping, fly posting, graffiti defacement and sale of nuisance vehicles
- r. Environmental Permitting

72. To engage the services of authorised veterinary practitioners to provide advice and other assistance in respect of the Council's statutory functions relating to animals.

73. To authorise any appropriate officers to act in matters relating to the licensing of hackney carriages and private hire vehicles under Part II of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.

74. To make decisions and to enter into agreements under the relevant regulations for the purpose of enforcing controls for working with asbestos.

75. To exercise all powers necessary to act as the District Chemical Pollution Officer.

76. To agree transfers of enforcement responsibilities under the Health and Safety (Enforcing Authority) Regulations 1989, as amended from time to time.

77. To authorise any appropriate officers to act in matters arising under Food Safety legislation including:-
- a. The power to enter any business premises in Great Britain in order to investigate offences occurring within the District Council's area.
  - b. The powers conferred for the purposes of entry, inspection and sampling by Environmental Health Technicians.
  - c. To authorise a Veterinary Surgeon or such other person as considered appropriate to enter any other premises in Great Britain in order to investigate offences occurring within the District Council's areas.
  - d. To appoint Public Analysts
78. To approve premises for the purposes of production and/or processing of food as required by Food Safety legislation
79. To authorise Environmental Health Officers and Technicians who have received adequate training to enforce Part III of the Food and Environmental Protection Act 1985 and the Control of Pesticides Regulations 1986.
80. To authorise any appropriate staff to act in matters arising under Health, Safety and Welfare legislation.
81. To appoint and authorise such persons as is considered necessary not being Council employees, to enter premises within the administrative area of the District Council to investigate offences under Health and Safety legislation.
82. To recover costs incurred in preventing or abating statutory nuisance as a civil debt or by putting a legal charge on the premises in consultation with Legal Services.
83. To appoint, as and when necessary and in conjunction with the Proper Officer for infectious and communicable diseases, a clinician for the purposes of Section 35 of the Public Health (Control of Disease) Act 1984.
84. In consultation with legal services, to authorise the institution of legal proceedings (whether civil or criminal) in respect of any matter relating to his service.
85. To authorise an application to the Magistrates Court under Section 38(i) of the Public Health (Control of Disease) Act 1984.
86. To discharge powers and duties in carrying out the review, assessment, designation of air quality management areas.

### **Clean Neighbourhoods and Environment Act 2005**

87. To issue Defacement Removal Notices and Fixed Penalty Notices for Graffiti and flyposting.
88. To issue Litter Abatement Notices, Litter Clearing Notices, and Street Litter Control Notices.

89. To issue the following fixed penalty notices for Nuisance Parking, Litter, Street Litter Control, Litter clearing, Failure to produce waste transfer note, Failure to produce waste carriers licence, Offences under Dog Control Orders, Noise from licensed premises, Failure to nominate Key holder or to notify Local Authority in writing of nominated Key holder's details.
90. To issue consents for the distribution of free literature, and to issue fixed penalty notices for the unauthorised distribution of literature in designated land.
95. To issue notices and applications under the Anti-Social Behaviour Crime and Policing Act 2014, including Civil Injunctions, Criminal Behaviour Orders, Dispersal Powers, Community Protection Notices, Community Protection Orders, and Fixed Penalty Notices for breaches of a Public Spaces Protection Order and orders to authorise Closure of Premises.

### **Gambling Act 2005**

96. To administer the processes under the Gambling Act 2005.
97. To determine the following matters under the Gambling Act 2005 including the imposition of appropriate conditions on Licences:-
  - a. Application for Premises Licence – Where no representations received/representations have been withdrawn
  - b. Application for a variation to a Licence – Where no representations received/representations have been withdrawn
  - c. Application for a transfer of a Licence – Where no representations received/representations have been withdrawn
  - d. Application for Provisional Statement – Where no representations received/representations have been withdrawn
  - e. Application for Club Gaming/Club Machine Permits – Where no objections made/objections have been withdrawn
  - f. Applications for other Permits
  - g. Cancellation of licensed premises Gaming Machine Permits
  - h. Consideration of Temporary Use Notice
98. Fees: The setting of fees within the confines of The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 are delegated to the Director of Planning & the Environment.

### **Coast Protection**

99. To exercise the Council's powers contained within the Coast Protection Act 1949.

To amend the Beach Management Plan 2016-2021 Schedule of Works if required during this period.



To procure and award contracts for work in accordance with the Beach Management Plan 2016-2021 and Financial Standing Orders.

### **Director of Residents' Services**

1. To issue fixed penalty notices for offences in relation to waste receptacles under the Clean Neighbourhoods and Environment Act 2005.
2. To make arrangements for the burial or cremation of persons for whom no other suitable arrangements have been made.
3. To deal with all matters relating to the grant of exclusive rights of burial and to agreements for the maintenance of graves.
4. To determine charges for the collection and disposal of clinical waste from all premises other than private dwellings (in consultation with the Chief Finance Officer).
5. To approve the Memorandum of Understanding to Underpin the Statutory, Strategic and Operational Relationship between West Sussex Waste Authorities and any future updates (provided the financial implications for the council do not exceed £100,000) following consultation with the Cabinet Member for Planning and the Director of Corporate Services.
6. To approve expenditure on communication initiatives in accordance with the Recycling Communications Strategy within the funding of £50,000 approved by the Cabinet on 12 April 2016.

### **Council Tax and Non-Domestic Rates**

7. To deal with the following:-
  - a. Administration of Council Tax and Non-Domestic Rates including refunds in cases of over-payment to the Council as Billing Authority.
  - b. Apportionments in respect of premises partially unoccupied for short periods in accordance with s44A of the Local Government Finance Act 1988 (as amended)
  - c. Applications for hardship or discretionary rate relief in accordance with any statutes and the Council's Grants & Concessions Policy
  - d. Exercise of powers relating to completion notices
  - e. Determination of applications for reduction in Council Tax under Section 13A of the Local Government Finance Act 1992 (as amended) in accordance with the Council's adopted Council Tax Reduction Scheme and for any additional awards under s13A(c)
  - f. Institution of proceedings for non-payment of accounts including prosecution or defence in the Magistrates' Court (by the Chief Finance Officer or his nominated representative).

- g. Employment of the services of commercial bailiffs in appropriate circumstances.
- 8. To make decisions, and to set local policy reliefs, using the Council's discretionary powers under section 47 of the Local Government Finance Act 1988, as amended, where this accords with government guidance and the cost is reimbursed to the Council (Cabinet minute 600), and specifically to make decisions on temporary discretions to help homeowners and businesses recover from the adverse weather since 1 December 2013 (namely The Repair and Renew Grant, Business Rates Flooding Relief, Council Tax Discounts), and in respect of Retail Relief.

### **Housing Benefits & Council Tax Benefits**

- 9. To deal with the following:-

In accordance with the Social Security Acts, the Housing Benefit and Council Tax Benefit Regulations and guidance issued by the DWP:

- a) Administration & payment of Housing Benefit to applicants.
- b) Administration & payment of Council Tax Benefit to applicants.
- c) Determination of representations from applicants dissatisfied with any decisions under Items (a) and (b) above.
- d) Payment of Discretionary Housing Payments
- e) Investigation of suspected cases of fraud and authorising prosecution proceedings.
- f) Classification and recovery of overpaid Housing Benefit and Council Tax Benefit, including authorisation of court proceedings.

### **Local Land Charges**

- 10. To remove any non-subsisting entries from, or add new entries to, the Local Land Charges Register.

To set future fees in consultation with the Section 151 officer (Chief Finance Officer) without reference back to members, in order to ensure the requirement to break even over a rolling three-year period is complied with.

### **Street naming and numbering**

- 11. To exercise the Council's functions in respect of the official naming of streets and the numbering of properties where these have not been delegated to a parish or town council and to make decisions in accordance with the adopted Street Naming, Numbering and Street Name Plate Policy.

### **Delegated powers of other officers**

#### **Democratic Services Divisional Manager** (and Legal Services officers authorised by him)

- 1. To authorise, authenticate and issue any documents for the purpose of any of the Council's functions including all court proceedings

2. To affix and attest the seal of the Council to any deed or other document.
3. To brief Counsel or obtain Counsel's opinion, subject to budget availability.
4. To authorise legal officers to appear on behalf of the District Council in the County and Magistrates' Court pursuant to Section 60 of the County Courts Act 1984 and Section 223 of the Local Government Act 1972.
5. To make decisions (in consultation with the Chairman of the Planning Committee and the Director of Planning and the Environment) as to whether, having regard to the law and evidence involved, any notices or legal proceedings should be withdrawn or modified having regard to changes in the facts or other circumstances which become known after the Planning Committee's original decision to take such action.
6. To make applications to the Secretary of State or his Inspector for awards of costs in favour of the Council in respect of appeals relating to planning applications, listed buildings, enforcement notices, advertisements and other planning matters.
7. To apply (following consultation with the Chairman of the Planning Committee and the Director of Planning and the Environment) to the High Court or a County Court for an injunction under Section 187B of the Town and Country Planning Act 1990
8. To apply to a Magistrates' Court for a warrant of entry for the purposes of Section 196B of the Town and Country Planning Act 1990.
9. To serve requisitions for information as to ownership, occupation or other interest in land for the purposes of any of the functions of the Council and to take legal proceedings for failure to provide information required by a statutory requisition for information.
10. To determine applications from the Police for orders prohibiting trespassory assemblies under Section 14A of the Public Order Act 1986 (and substituted by the Criminal Justice and Public Order Act 1994) in consultation with the Leader of the Council and the Director of Housing and Communities in appropriate cases.
11. To take action in respect of unauthorised encampments under Sections 77, 78 & 79, of the Criminal Justice and Public Order Act 1994.
12. To give receipts for the discharge of redeemed mortgages.
13. To grant or refuse consent for the transfer of properties subject to mortgages held by the Council.
14. To make decisions having regard to the law and evidence involved as to whether the commencement or defence of civil or criminal proceedings can be properly justified in the Council's interests in any case where it is being considered by an employee acting under delegated powers.
15. To act as the Proper Officer for the purpose of Section 41 of the Local Government (Miscellaneous Provisions) Act 1976 (Evidence of Resolutions and Minutes of Proceedings etc.).

### **Monitoring Officer**

1. To grant dispensations under s 33 Localism Act 2011, in consultation with the Chairman or (in their absence) the Vice-Chairman of the Council.

### **Consultant in Communicable Disease Control**

1. To serve notices relating to infected food and control of notifiable diseases.
2. To apply to the Justices for orders or certificates, with a view to preventing spread of disease or arranging for the removal of aged and infirm persons to hospital or other suitable premises in consultation with the Leader of the Council (unless the urgency of the circumstances makes such prior consultation impracticable).
3. To act as the Port Medical Officer for the Chichester District.
4. To authenticate any documents necessary for the exercise of any of the functions described in Items 1 to 3 above.

### **Economic Development Manager**

1. To make decisions in respect of the Business Support Scheme for grants to small and medium sized businesses that have been affected by flooding since 1 December 2013 (Cabinet minute 566(1)).

## PART 4 – RULES OF PROCEDURE

### 4.1 Procedural Standing Orders

#### Introduction

These Standing Orders regulate the proceedings of the Council Meetings and a wide range of Committee Meetings.

If a Member requires any advice on the operation of these Standing Orders, or the statutory provisions which affect Council and Committee Meetings, or on the declaration of interests at meetings, please contact Member Services before the meeting and they will be pleased to assist you.

In these Standing Orders the words mentioned below have the following meanings:-

1. Committee - means the Cabinet, Committees, Sub-Committees, Working Parties, Panels and Boards which include Council Members in their membership.
2. Minutes of the meetings of the Cabinet and other Committees - these may include recommendations (which require approval by the Council) and resolved minutes (which are resolutions made by the meeting under authority delegated by the Council and set out in their Terms of Reference).
3. The word “he” includes “she”.
4. Council Year - means the period from the Annual Council meeting in May to the next one.

#### Part A – Procedures common to Council and committee meetings

1. **Dates of Meetings**
  - 1.1 The **Annual Meeting** shall be held in May each year.
  - 1.2 **Ordinary meetings** of the Council and of Committees shall be held generally in accordance with a programme to be approved by the Council, although the dates and times of meetings may be adjusted by the Chairman
  - 1.3 A **special meeting** of the Council may be called by the Chairman of the Council; or by at least 5 Members giving a written request to the Director of Corporate Services.
  - 1.4 A special meeting of a Committee may be called by the Chairman of the Committee, or by 3 or more Members of the Committee giving a written request to the Director of Corporate Services.
  - 1.5 The special meeting will not normally be held until at least 5 working days have elapsed since the request was submitted, and no business shall be considered unless it is stated on the agenda.

- 1.6 A special meeting of the Council shall not include Public Question Time, Questions to the Executive and Late Items unless the Chairman of the Council so directs.

## **2. Quorum**

- 2.1 The quorum for each Council meeting shall be 9 Members.
- 2.2 The quorum of the Cabinet shall be 4 Members.
- 2.3 The quorum of the Overview and Scrutiny Committee shall be 4 Members
- 2.4 The quorum of each of the other Committees shall be one quarter of its membership (with a minimum of 3 Members).
- 2.5 In the absence of a quorum the meeting shall be adjourned.
- 2.6 The business not transacted shall be deferred to the next ordinary meeting of the Council or Committee, or to a special meeting of it called in accordance with Standing Order 1.

## **3. Chairman**

- 3.1 The chairman for each meeting shall be:
- 3.1.1 The Chairman of the Council or Committee, as appropriate; or
- 3.1.2 The Vice Chairman of the Council or Committee, as appropriate, in the absence of the Chairman; or
- 3.1.3 The Member elected by the meeting in the absence of both the Chairman and Vice Chairman.
- 3.2 The chairman of the meeting shall be entitled to give a final ruling on the interpretation of these procedural Standing Orders or to vary processes for particular meetings or circumstances within the general framework of these Standing Orders.
- 3.3 If the position of Chairman or Vice-Chairman of a Committee becomes vacant during the Council Year, the Council shall fill such a vacancy at its next meeting.

## **4. Agendas and Minutes**

- 4.1 The content of the agendas for all Council and committee meetings shall be finalised by the Director of Corporate Services in consultation with the Chairman.
- 4.2 The Director of Corporate Services shall be responsible for the content of the published version of the minutes of all meetings subject to consultation with the relevant Chairman and approval under Standing Order 4.3 below.
- 4.3 The meeting shall consider approving and signing the minutes of the last

meeting as a correct record (or the minutes of an earlier meeting if they were not approved at a subsequent special meeting). Only the accuracy of the minutes may be discussed and then only by motion.

## **5. Announce Urgent Items**

- 5.1 The chairman shall announce any matters which he has agreed will be considered as urgent items.

## **6. Public Question time**

- 6.1 The public may ask questions in accordance with the Council's Scheme for Public Question Time (Part 5.6 of this Constitution).
- 6.2 Members may, with the chairman's consent, ask questions or make comments on the matters raised during public question time.
- 6.3 A Member may propose that a matter arising during public question time is referred to a Committee for consideration (if arising at a Council meeting) or (if arising at a Committee meeting) is considered by the Committee or another Committee – and if this is seconded the Council or Committee shall vote on the proposal.
- 6.4 The Chairman may extend the time limit for each member of the public asking questions (3 minutes) or the total time for public question time (15 minutes).

## **7. Declaration of Interests**

- 7.1 Each councillor, and co-opted member with voting rights, shall declare interests at meetings and withdraw to the public seating area or from the meeting room as required by the Code of Conduct adopted by the Council.

## **8. Rules of Debate**

- 8.1 A proposal at the full Council may only be discussed after it has been moved by one Member and seconded by another.
- 8.2 A member when speaking shall address the chairman of the meeting.
- 8.3 The Chairman will decide the order of speeches by Members and (at a Council meeting) whether a Member will be permitted to speak more than once on the same item.
- 8.4 Speeches by Members shall normally last not more than 5 minutes unless the chairman approves a longer period.
- 8.5 Amendments to motions shall be moved and seconded before they are discussed in detail and the chairman has discretion to allow more than one amendment to be discussed at the same time.
- 8.6 A Member may raise, without notice, any matter relating to the procedure of the meeting (for example rules of debate, reference of an item to a committee,

appointing a new committee, sub-committee or task and finish group etc., or a point of order – that is, an alleged breach of a statutory provision or a Standing Order).

- 8.7 During a debate a Member may move a “closure motion” that is, that the motion being discussed be voted upon, or that the Meeting should proceed to the next business, or that the Meeting should be adjourned.
- 8.8 If a “closure motion” is seconded, the chairman shall decide if the matter has been discussed sufficiently and he may then ask the Member who moved the original motion for his comments and the meeting shall then vote on the “closure motion”.

## **9. Voting Procedures**

- 9.1 Except as stated in Standing Orders 9.5 and 9.7 below, generally voting on all motions shall be by show of hands.
- 9.2 In the event of an equality of votes, the chairman of the meeting shall have a second or casting vote.
- 9.3 After voting, a member may require the minutes of the meeting to record whether he voted for or against a motion, or abstained from voting.
- 9.4 A recorded vote shall be taken if at least 4 Members request it before the voting process starts, that is, the Minutes shall record whether each Member present voted for the motion, against it, or abstained from voting;
- 9.5 A recorded vote, as defined in 9.3 above, shall be taken at a budget decision meeting of the Council on any decision related to the level of Council Tax.
- 9.6 If a meeting considers matters relating to the level of Council Tax, any Member who is at least 2 months in arrears with payment of his Council Tax shall disclose this fact to the meeting – he may speak on the matters but shall not vote on them.
- 9.7 A secret ballot shall be conducted only if there are two or more candidates for the election of the Leader of the Council or any chairman or the appointment of the vice-chairman, that is, each Member present shall record his vote confidentially for, against or abstaining, on a blank piece of paper.
- 9.8 If there are 3 or more Members nominated for any appointment (for example as a committee chairman or vice-chairman or as a member of a committee, sub-committee etc. or another organisation) and after a vote none of the candidates has a clear majority of votes in his favour, the person with the least number of votes shall be deleted from the list and a fresh vote shall be taken until a majority of votes is given in favour of one person. A similar procedure shall be followed where a meeting is asked to choose between three or more options.

## **10. Members' Behaviour**

- 10.1 A Member shall always comply with the directions and rulings of the chairman of the meeting on the conduct of the meeting and the interpretation of the



procedural Standing Orders.

10.2 If any Member acts improperly or willfully obstructs the business of the meeting the chairman may:

10.2.1 Direct the Member to stay silent; or

10.2.2 Direct the Member to leave the room; or

10.2.3 Adjourn the meeting.

## **11. Behaviour of the public, press and media**

11.1 The public, press and media shall comply with the directions of the chairman during a meeting.

11.2 The chairman may order the removal of a member of the public, press and media from the meeting room if he is disrupting the meeting, and if there is general disturbance the chairman may adjourn the meeting.

11.3 Subject to the provisions allowing the exclusion of the press and public, the photographing, filming or recording of meetings of the Council and its Committees from the public seating area is permitted. To assist with the management of a meeting, anyone wishing to photograph, film or record is asked to inform the chairman of the meeting of their intentions before the meeting starts. The use of mobile devices for reporting on a meeting by the press and public using social media is permitted. Those undertaking such activities must do so discreetly and not disrupt the meeting, for example by oral commentary, excessive noise, distracting movement or flash photography and this could result in expulsion under Standing Order 11.2.

## **12. Record of Attendance at Committee Meetings**

12.1 A record shall be kept of attendance at Council and Committee meetings.

## **Part B – Council meetings**

### **13. The Annual Meeting**

13.1 At the Annual Meeting of the Council the Council shall:

13.1.1 Elect the Chairman of the Council

13.1.2 Appoint the Vice Chairman of the Council

13.1.3 Elect the Leader of the Council (at the post-election Annual Meeting)

13.1.4 Appoint Committees (except the Cabinet) which exercise delegated authority including

13.1.4.1 Their membership in accordance (if applicable) with the Local Government (Committees and Political Groups) Regulations.

13.1.4.2 The appointment of their Chairmen and Vice-Chairmen.

13.1.5 Appoint Members to other organisations (where the appointments are not made by the Cabinet).

13.2 The decisions in Standing Order 13.1 above shall apply only until the next Annual Council meeting (except for the election of the Leader of the Council and the long term appointments to other organisations).

13.3 The content of the agenda for the Annual Meeting shall be finalised by the Director of Corporate Services in consultation with the Chairman of the Council and the meeting shall also consider other business as stated on the agenda in accordance with Standing Order 14 below.

**14. The order of business at ordinary meetings of the Council**

14.1 The order of business at ordinary Council meetings shall be as set out in 14.2 to 14.17 below - however the order may be varied by the chairman of the meeting, or by the Council after a vote on it.

14.2 The election of a chairman if the Chairman of the Council and the Vice Chairman of the Council are both absent.

14.3 Approve and sign the Minutes of the last Meeting of the Council as a correct record (or the minutes of an earlier meeting if they were not approved at a subsequent special meeting). Only the accuracy of the Minutes may be discussed and then only by motion (see S.O. 4).

14.4 Announce any matters which the Chairman has agreed will be considered as urgent items (see S.O. 5).

14.5 Declarations of interests by Members (see S.O. 7)

14.6 Chairman's announcements

14.7 To consider a petition (if any) in accordance with the Council's petition scheme (see S.O. 15).

14.8 Public question time (see S.O. 6)

14.9 Decisions to be made by the Council, (if any) on the recommendation of the Cabinet or a Committee

14.10 Topic for debate as directed by the Chairman (if any)

14.11 Questions to the Executive (for a maximum of 40 minutes) (see S.O. 16 and 17)

14.12 Receive reports from the Chief Executive and the Council's committees and receive questions and answers on any of those reports.

14.13 Receive reports about and receive questions and answers on the business of any joint arrangements and external organisations.

- 14.14 Consider motions proposed in advance by Members (see S.O. 18).
- 14.15 Consider other business stated on the agenda.
- 14.16 Consider any urgent items – the reasons for urgency being recorded in the minutes.
- 14.17 Consider items in private session.

## **15. Petitions**

- 15.1 A petition that satisfies the criteria set out in the Council's petition scheme may be the subject of debate by the Council. Whether the criteria are met shall be determined by the Director of Corporate Services in consultation with the Chairman.
- 15.2 The organiser of the petition (or his or her nominee) may attend the meeting of the Council so as to address the Council for not more than five minutes. The relevant Member of the Executive (as determined by the Director of Corporate Services in consultation with the Leader of the Council) shall be entitled to speak for up to five minutes in reply and the matter may then be debated. The debate should, subject to the discretion of the Chairman, not last more than 30 minutes.
- 15.3 Where necessary for the purpose of advising the Council on whether the officer is directly affected by the content of the address, the Chairman may call upon a senior officer to advise the Executive member or, exceptionally, to address the Council.
- 15.4 Where the petition meets the criteria for requiring the attendance of a senior officer before a meeting of the Overview and Scrutiny Committee the organiser of the petition (or his or her nominee) may submit in writing at least five days before the meeting questions to be answered by the relevant senior officer at the meeting.

## **16. Councillors' Questions**

- 16.1 Written questions must be received by Member Services no later than noon two working days prior to the day of the Council meeting (i.e. by noon on Friday where the Council meeting is on a Tuesday with no intervening bank holiday). Questions shall be addressed to the Leader or relevant Cabinet Member who shall be responsible for the content of the answer. Members of Cabinet shall have discretion to refer a question to another member if this is appropriate.
- 16.2 No more than three written questions shall be asked by each Councillor. In case of doubt, the Chairman shall decide whether it is appropriate for the matter to be considered at a Council Meeting and shall disallow any questions considered inappropriate.
- 16.3 Any Councillor, except any other Cabinet member, may ask the Leader or a Cabinet Member, as appropriate, one oral question without notice on any matter affecting the Council's area.

- 16.4 No question shall be asked on a matter concerning a Planning or Licensing application.
- 16.5 A Councillor may ask one brief supplementary question arising from the reply given to a question they have submitted but shall do so only if called by the Chairman.
- 16.6 A Councillor other than the original questioner may ask a brief supplementary question at the Chairman's discretion.
- 16.7 A record of all questions and answers will be included in the minutes of the meeting.
17. **Answers re: Public Question Time and Councillors' Oral Questions**
- 17.1 The relevant Member of the Cabinet or committee chairman may
- 17.1.1 Respond orally to the question/comment; and/or
- 17.1.2 Decline to respond; and/or
- 17.1.3 Make reference to an existing publication; and/or
- 17.1.4 Circulate a written response at the Council meeting or subsequently; and/or
- 17.1.5 Request a Senior Officer to respond where practicable
18. **Submitting a motion**
- 18.1 Members may submit motions in line with the motions procedure set out in Appendix which can be found at the end of section 4.1 of this Constitution.
19. **Overturning a previous Council resolution**
- 19.1 No proposal to overturn a Council resolution shall be considered by the Council within six months of the resolution unless:
- 19.1.1 At least 13 Members of the Council sign a proposal under Standing Order 18, or
- 19.1.2 The proposal is included in a recommendation from a Committee
20. **Changing Procedural Standing Orders**
- 20.1 Any proposal to change any of the Procedural Standing Orders (unless the subject of a written report circulated with the Agenda) shall, after being proposed and seconded at a Council Meeting, be automatically deferred for

consideration at the next Council Meeting – although the proposal may be considered in the meantime by a Committee.

## **21. Suspension of Standing Orders**

- 21.1 Any of the above Standing Orders may be suspended at a Council meeting, provided advance notice is given in accordance with Standing Order 18 or if at least 25 Members are present at the Meeting when the proposal to suspend Standing Orders is put forward.

### **Notes relating to the suspension of Procedural Standing Orders**

- (a) Members should endeavour to state their reasons for requesting suspension of Procedural Standing Orders (Minute 31(c) of the Council meeting 21st June 2005).
- (b) 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 (see Article 16.01 (b) on page 40 and Article 1 on page 4).
- (c) It is not possible to suspend the requirement for the approval of the Minutes of a Council meeting if they were not approved at a subsequent Special Meeting (This is set out in Standing Order 5.3 and is made mandatory by regulations.)
- (d) It is not possible to suspend Standing Order 13.2 which entitles a Member to require the Minutes of a Council meeting to record whether he voted for or against a motion, or abstained from voting, as this is also a mandatory requirement in regulations.

## **Part C – Committee meetings**

## **22. Attendance by Members who are not appointed to the Committee**

- 22.1 All Members shall be informed of the dates of the meetings of all Committees.
- 22.2 Each Member who is not appointed to a Committee shall have the right to attend and observe its meetings from the area, if any, set aside for such members or from the public seating area only.
- 22.3 Each Member may, with the chairman's consent, speak at the Committee or temporarily sit and speak at the Committee table on a particular item on the agenda but shall then return to the seating area described in Standing Order 22.2.

*Note: The Leader of the Council applies this Standing Order at Cabinet meetings by requesting that members should normally seek his consent in writing by email in advance of the meeting. They should do this by noon on the day before the meeting, outlining the substance of the matter that they wish to raise. The word "normally" is emphasised because there may be unforeseen circumstances where a member can assist the conduct of business by his or her contribution and where he would therefore retain his discretion to allow the*

*contribution without notice.*

- 22.4 The Member who moved a motion at a Council meeting which was referred to a Committee shall be entitled to speak on the matter at the Committee meeting.

## **Part D - Miscellaneous**

### **23. Proceedings to be confidential**

- 23.1 All agenda, reports and other documents and all proceedings of Committees, shall be treated as confidential unless and until they become public in the ordinary course of the Council's business.

### **24. Inspection of background documents by Members**

- 24.1 Members shall have the right to inspect documents held by the Council which relate to items on the agenda of the Council meeting or Committee meetings unless a Senior Officer or the Monitoring Officer considers that they contain exempt information as defined in Section 100 F of the Local Government Act 1972.
- 24.2 A Member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he is professionally interested or in which he has any disclosable pecuniary or prejudicial interest.
- 24.3 Exceptionally a member of staff may seek a decision from the Cabinet on whether to compile information requested by a Member which would entail significant officer time and/or resources.

### **25. Standing Orders etc. to be given to Members**

- 25.1 The Monitoring Officer shall provide each new Member of the Council with a copy of the Council's Standing Orders relating to procedures and contracts, financial regulations, terms of reference of Committees, and the scheme of delegation to officers.

### **26. The Appointment of Senior Officers**

- 26.1 Where the Council proposes to appoint a Senior Officer and it is not proposed that the appointment be made exclusively from among their existing staff, they shall:-
- 26.1.1 Draw up a statement specifying the duties of the Senior Officer concerned, and any qualifications or qualities to be sought in the person to be appointed;
- 26.1.2 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
- 26.1.3 Make arrangements for a copy of the statement mentioned in paragraph 26.1.1 to be sent to any person on request.

26.2 Where a post has been advertised as provided in Standing Order 26.1.2 a committee of the Council shall:-

26.2.1 Interview all qualified applicants for the post; or

26.2.2 Select a short list of such qualified applicants and interview those included on the short list.

26.3 Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with paragraph 26.1.2 above.

26.4 Every appointment of a Senior Officer shall be made by the Council. In respect of the post of Chief Executive or a post advertised in accordance with 26.1-3 above the appointment shall be made following the recommendation of such an appointment by a Committee of the Council. In respect of an appointment exclusively from existing staff (except the Chief Executive post) the appointment shall be made on the recommendation of the Chief Executive.

26.5 The Full Council may only approve the appointment of a Senior Officer where no well-founded objection has been made by a member of the Cabinet.

## **27. Members and appointment of officers**

27.1 If a candidate for an appointment with the Council canvasses a Member of the Council on the appointment, the candidate shall be disqualified.

27.2 A Member shall not solicit an appointment for any person, although the Member may give a reference for a candidate if requested. The conduct of a Member in such matters may be reviewed by the Council's Standards Committee (see Standing Order 43 below).

27.3 A candidate for any appointment with the Council who knows that he is related to any Member, Chief or senior officer of the Council, shall, when making his application, disclose that relationship to the Director of Corporate Services.

27.4 A candidate who fails to disclose such a relationship shall be disqualified for the appointment and if appointed shall be liable to dismissal without notice.

27.5 Every Member and Senior Officer shall disclose to the Director of Corporate Services any relationship known to him to exist between himself and any person whom he knows is a candidate for an appointment with the Council.

27.6 For the purpose of this Standing Order persons shall be deemed to be related if they are husband and wife or are living together as such, or are partners, or if either of them, or the spouse of either of them, is the son or daughter or grandson or granddaughter or brother or sister or nephew or niece of the other, or of the spouse of the other.

## **28. Disciplinary Action against the Chief Executive and certain other officers**

28.1 In the following paragraphs—

“the 2011 Act” means the Localism Act 2011;

“Chief Finance Officer”, “disciplinary action”, “head of the authority’s paid service” and “Monitoring Officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;

“independent person” means a person appointed under section 28(7) of the 2011 Act;

“local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;

“the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;

“relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and

“relevant officer” means the chief finance officer, head of the authority’s paid service or Monitoring Officer, as the case may be.

- 28.2 A relevant officer may not be dismissed by the authority unless the procedure set out in the following paragraphs is complied with.
- 28.3 The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
- 28.4 In paragraph 28.3 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
- 28.5 Subject to paragraph 28.6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 28.3 in accordance with the following priority order—
- i. a relevant independent person who has been appointed by the authority and who is a local government elector;
  - ii. any other relevant independent person who has been appointed by the authority;
  - iii. a relevant independent person who has been appointed by another authority or authorities.
- 28.6 The authority is not required to appoint more than two relevant independent persons in accordance with paragraph 28.5 but may do so.
- 28.7 The authority must appoint any Panel at least 20 working days before the relevant meeting.
- 28.8 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—



- the conclusions of any investigation into the proposed dismissal; and
- any representations from the relevant officer.

28.9 Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

## 29. **Interests of officers in contracts**

29.1 Members may inspect the record regarding the interests of officers in contracts which have been declared under Section 117 of the Local Government Act 1972.

## 30. **Sealing of Documents**

30.1 The common seal of the Council shall be affixed to a document only if the sealing has been specifically authorised by the Council, a Committee or by an employee acting under delegated powers, or if the sealing is necessary in order to implement any of their decisions.

30.2 The common seal of the Council shall be kept in a safe place in the custody of the Legal and Democratic Services Divisional Manager.

30.3 The person who witnesses the sealing of the document shall sign the sealing register.

## 31. **Registers of Gifts and Hospitality**

31.1 The registers of gifts and hospitality offered or received by Members are available on the council's website. The registers of gifts and hospitality offered or received by officers shall be open to inspection by all Members and the public upon request to the Monitoring Officer.

## 32. **Members – works, property and management practices**

32.1 A Member shall not issue any order relating to any works being carried out by the Council or its contractors.

32.2 A Member shall not claim any right to enter or inspect any property in the district.

32.3 Members shall recognise the distinction between their role of determining policy and the responsibility of managers to manage the Council's day-to-day activities, and will conduct themselves accordingly.

## 33. **Standards Committee**

33.1 The Committee shall meet on an ad hoc basis and shall have responsibility for ensuring Members act in accordance with the Council's Code of Conduct and ethical values.

## **Appendix - Motions Procedure**

### **1. Submitting a motion**

- 1.1. A member may submit an original motion to a Council meeting by giving written notice to the Chairman and Director of Corporate Services at least 10 clear working days before the date of the Council meeting.
- 1.2. The motion must relate to one of the Council's functions or affect the wider district.
- 1.3. Motions shall be limited to one motion per member per council meeting.
- 1.4. Motions shall normally be no longer than 300 words.
- 1.5. Members are encouraged to consult the Director of Corporate Services before the closing date for submission on the wording of their motions to ensure the wording complies with the Constitution.
- 1.6. The Chairman may consult with Group Leaders where the Chairman considers it will be helpful to their consideration of a motion. The Chairman, in consultation with the Director of Corporate Services, shall determine whether the motion will be:
  - a) Included within the agenda to be moved and debated at the next Council meeting.
  - b) Referred to the Cabinet or relevant Committee/Panel where the motion has legal, financial or other regulatory implications, in order that those implications can be fully considered and understood in the most appropriate forum.
  - c) Reworded to enable the motion to be debated at Full Council. For example, where the matter to be debated is an Executive function (which cannot be resolved at Full Council), it may be necessary for the motion to be reworded as a recommendation to the Cabinet or other committee to consider (taking into account the views of Council).
  - d) Rejected as it does not relate to a function of the Council or affect the wider district.
  - e) Rejected as, in the view of the Chairman having consulted with the Director of Corporate Services, it contains more than one, unrelated motion or is unreasonably lengthy.
  - f) Rejected as, in the view of the Chairman having consulted with the Director of Corporate Services, the motion is out of order, illegal, irregular or improper.
- 1.7. The Director of Corporate Services will inform the Member who submitted the proposed motion of the Chairman's decision and the relevant criteria on which that decision was based. If a member disagrees with the basis of rejection they may raise this with the Monitoring Officer who will give their advice on this point to the member and the Chairman.
- 1.8. If more than one motion is accepted for any given Council meeting the motions will be taken in order determined by the Chairman in consultation with the Group Leaders. Any motions accepted in principle but which cannot be allocated time

for debate will be published in the agenda with a clear note that they will be considered at a future meeting.

## **2. Motions without notice**

The following motions may be proposed and seconded without prior notice:

- a) To appoint a Chairman of the meeting where the Chairman is absent.
- b) To amend the minutes of the previous meeting.
- c) To adjourn a debate.
- d) To adjourn a meeting.
- e) To propose a closure motion.
- f) To exclude the press and public in accordance with legislation.
- g) To propose an amendment/s to recommendation (see Section 3 below).
- h) Minor amendments which do not significantly change the meaning of a Motion.  
(Such amendments will be dealt with orally during the meeting.)

## **3. Amendments**

- 3.1. Amendments to a motion (called “amendments” in this procedure) which significantly change the nature of a motion should be submitted to the Chairman and the Director of Corporate Services no later than midday two working days before the Council Meeting.
- 3.2. The amendment must relate directly to a motion that has been tabled in the agenda pack and must not be a new motion which would require 10 clear working days’ notice. The decision whether to accept an amendment will be based on the rules relating to those for accepting motions as laid out in Section 1.6. The Chairman, in consultation with the Director of Corporate Services, will make this decision. The Director of Corporate Services will advise on the application of the Constitution, broader strategic and public law issues and obtain specific legal advice through the Monitoring Officer if needed.
- 3.3. Members are encouraged to share draft versions of their amendments with all Group Leaders, the Chairman and the Director of Corporate Services in advance of submission under section 3.1 of this procedure in order to avoid duplication, to encourage consideration and research by all Groups and in order to assist the effective running of the meeting.
- 3.4. The Director of Corporate Services will share all notified amendments with the Council Chairman and relevant officers in order to ensure the smooth running of the meeting.
- 3.5. All amendments received in advance and accepted as outlined at section 3.2 above will be circulated to all members by email by twelve noon one working day prior to the meeting and in hard copy at the meeting.

## **4. Debating a motion**

- 4.1. All matters as to timing or the application of this procedure at the meeting shall be subject to the general discretionary powers of the Chairman to

ensure the efficient management of the meeting.

- 4.2. The time allowed for motions to be debated shall be restricted to 60 minutes in total. The time allowed for the proposer and the relevant Cabinet Member for any motion being debated shall be restricted to 5 minutes. Each other Speaker shall be restricted to 3 minutes. Each speaker is allowed to speak only once to the original motion and/or any amendment(s) unless a closure motion is put by any member other than the Chairman. If a closure motion is put the proposer or another member they nominate to speak on their behalf (only) may speak again in accordance with 4.11 below.

After the above closure motion process the Chairman will:

- a) If carried, close the debate and put the motion and any amendment(s) to the vote as 4.8 - 4.10 below, or;
- b) If the closure motion is not carried, allow the current motion being debated to conclude in the normal manner.

- 4.3. Any motion not debated will be deferred to a subsequent meeting of the Council.
- 4.4. At the Council meeting each motion must be proposed and seconded before it is debated.
- 4.5. The Chairman will invite the member who proposed the motion to speak first.
- 4.6. The Chairman will then invite any member who proposed an amendment in advance and then any Member who wishes to propose a minor amendment, to propose and second their proposal(s).
- 4.7. The Chairman will then invite the relevant Cabinet member or committee Chair to speak before inviting other members to speak in turn.
- 4.8. Following the debate the Chairman will first take a vote on the amendment(s), the result of which will be noted in the minutes of the meeting.
- 4.9. If there is no amendment, or the amendment vote is lost then the Chairman will take a vote on the original motion, the result of which will be noted in the minutes.
- 4.10. If there are multiple amendments submitted the Chairman shall determine the order in which they are put to the meeting. The Chairman may consider it appropriate to consult the Group Leaders in making this determination
- 4.11. After a closure motion being put to the vote and that vote being carried the Chairman shall permit the member who proposed the original motion - or another member nominated by the Proposer - to speak again for no more than three minutes by way of closing their motion.
- 4.12. If a motion is referred to the Cabinet or relevant Committee/Panel the member who proposed the motion will be invited to address the Cabinet or Committee/Panel.

## **5. Delegations**

For the avoidance of doubt, in the absence of the relevant person/s the following substitutes are authorised to carry out the above:

- a) For the Council Chairman, the Vice-Chairman
- b) For the Director of Corporate Services, the Divisional Manager for Democratic Services (or in the absence of both, the Democratic Services Manager, or any Director of the Council).

## **6. Annual Full Council and Budget setting meeting**

- 6.1 The Chairman shall pay particular care as to whether motions submitted for inclusion at Annual Full Council and annual Budget setting meetings are relevant to the matters specific to those meetings or are otherwise so urgent as to make delaying the motion to a later meeting inappropriate. Motions as to alternate budget proposals shall be submitted no later than ten working days in advance of the annual Budget Setting meeting as usual as in 1.1 above. Due to the increased complexity associated with them, amendments which present alternative budget proposals shall also be submitted no later than ten working days in advance of the annual Budget Setting meeting, following 1.1 above rather than 3.1 as would normally be the case for amendments.
- 6.2 The Chairman shall not be required to apply the time limits set out at Section 4 of this procedure for the Annual Full Council or Budget setting meetings and will entirely rely upon their own discretion to enable proper debate and to ensure that the meetings are otherwise effective. The Chairman's other powers to control the meeting are unaffected by this section.

## **4.2 Access to Information Procedure Rules**

### **1. Scope**

These rules apply to all meetings of the Council, the Overview and Scrutiny Committee, Corporate Governance and Audit Committee, area committees, the Standards Committee and regulatory committees and the Cabinet (together called meetings).

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

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

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

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

### **4. Public Question Time**

The public may ask questions at most meetings in accordance with the scheme for public question time.

### **5. Public speaking at certain committees and Council**

The public may speak at meetings of the Planning Committee and Council when they are considering planning applications and planning enforcement matters.

### **6. Notices of meeting**

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at East Pallant House, East Pallant, and Chichester and on the Council's website, or where the meeting is convened at shorter notice, at the time that the meeting is convened.

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

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on the Council's web site at least five clear days before the meeting. If an item is added to the agenda later, the supplementary agenda and report (if open to the public) will be available for public inspection from the time the item was added to the agenda.

### **8. Supply of copies**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) if a Chief Officer thinks fit, copies of any other documents supplied to councillors in connection with an item

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

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

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the executive 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.

## **10. Background papers**

### **10.1 List of background papers:**

Every report open to the public will include a list of those documents (called background papers) relating to the subject matter of the report which

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) were relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 12 below)

### **10.2 Public inspection of background papers**

The Council will make available at the designated office and on the Council's website 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.

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

This 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 East Pallant House, East Pallant, Chichester, at the Council's Area Offices and on the Council's web site.

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

### **12.1 Confidential information – requirement to exclude public**

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

## 12.2 Meaning of confidential information

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

## 12.3 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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.

### **Note:**

The powers to exclude the public from meetings when exempt information would be disclosed do not apply to the Alcohol & Entertainment Licensing Committee when it is considering matters under the Licensing Act 2003 nor to the Alcohol & Entertainment Licensing Sub Committees because specific provision for excluding the public is made in Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, i.e. "The licensing authority may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public".

## 12.4 Meaning of exempt information

Schedule 12A to the Local Government Act 1972  
Access to Information: Exempt Information Part 1  
PART 1

### **Descriptions of Exempt Information: England**

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be



maintained in legal proceedings.

6. Information which reveals that the authority proposes -
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

## PART 2

### **Qualifications: England**

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—
  - (a) the Companies Act 1985;
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Industrial and Provident Societies Acts 1965 to 1978;
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act 1993.
9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
10. Information which—
  - (a) falls within any of paragraphs 1 to 7 above; and
  - (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## PART 3

### **Interpretation: England**

11. (1) In Parts 1 and 2 and this Part of this Schedule—

"employee" means a person employed under a contract of service; "financial or business affairs" includes contemplated, as well as past or current, activities;

"labour relations matter" means—

- (a) any of the matters specified in paragraphs (a) to (g) of section 218(1)

of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or

- (b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

"office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

"registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

- (2) Any reference in Parts 1 and 2 and this Part of this Schedule to "the authority" is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference—

- a. in the case of a principal council, to any committee or sub-committee of the council; and
- b. in the case of a committee, to—
  - i. any constituent principal council;
  - ii. any other principal council by which appointments are made to the committee or whose functions the committee discharges; and
  - iii. any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and
- c. in the case of a sub-committee, to—
  - i. the committee, or any of the committees, of which it is a sub-committee; and
  - ii. any principal council which falls within paragraph (b) above in relation to that committee.

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

If a Senior Officer thinks fit, and subject to the advice of the Monitoring Officer, he or she may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 12, 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.

#### **14. Application of rules to the Cabinet**

Rules 15-22 below apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1-4, and 6-13 unless Rule 17 (general exception) or Rule 18 (special urgency) applies. A key decision is as defined in Article 13.03 of this Constitution.

This requirement does not include meetings whose sole purpose is for Council officers to brief members.

#### **15. Procedures before private meetings of the Cabinet**

15.1 A private meeting of the Cabinet shall include any meeting or part of a meeting at which members of the public are to be excluded in accordance with Rule 12.

15.2 At least 28 clear days prior to any private meeting of the Cabinet, the Leader of the Council shall cause to be published Notice of the Cabinet's intention to hold all or part of the meeting in private, together with a statement of reasons for the meeting to be held in private.

15.3 At least five clear days prior to any private meeting of the Cabinet, the Director of Corporate Services shall publish a further Notice on the agenda for the meeting and the Council's website of the Cabinet's intention to hold all or part of the meeting in private, a statement of the reasons for privacy and details of any representations received by the Council as to why the meeting should be held in public and the Cabinet's response to those representations.

15.4 Where the date by which a meeting must be held makes compliance with Rules 15.2 and 15.3 impracticable, the meeting may still be held in private where the Cabinet has obtained the agreement from:

- (a) the Chairman of the Overview and Scrutiny Committee; or
- (b) if there is no such person or such a person is unable to act, the agreement of the Chairman of the Council; or
- (c) if the Chairman of the Council is unable to act, the agreement of the Vice- Chairman of the Council,

that the meeting is urgent and cannot reasonably be deferred.

#### **16. Procedure before taking key decisions**

Subject to Rule 17 (general exception) and Rule 18 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the forward plan; and

- (c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 6 (notice of meetings).

## **17. General exception**

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 18 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until 28 clear days' notice has been given in accordance with Rule 16;
- (b) the Director of Corporate Services has informed the chairman of the Overview and Scrutiny Committee, by notice in writing, of the matter about which the decision is to be made;
- (c) the Director of Corporate Services has made copies of that notice available to the public at the offices of the Council and on the Council's web site; and
- (d) at least 5 clear days have elapsed since the Director of Corporate Services complied with (b) and (c).

As soon as reasonably practicable after (b) and (c) have been complied with a notice setting out the reasons why it is impracticable to comply with Rule 16 will be made available at the designated office and published on the Council's website.

## **18. Special urgency**

If by virtue of the date by which a decision must be taken Rule 17 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chairman of the body making the decision or the Director of Corporate Services on their behalf, obtains the agreement of the chairman of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no chairman of the Overview and Scrutiny Committee, or if this chairman is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice Chairman will suffice.

As soon as reasonably practicable after such agreement has been obtained a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred will be made available at the designated office and on the Council's website.

## **19. Report to Council**

### **19.1 When the Overview and Scrutiny Committee can require a report**

If the Overview and Scrutiny Committee considers that a key decision has been taken which was not treated as being a key decision and the Committee is of the opinion that it should have been so treated, the committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies. The report must include

details of the decision and the reasons for it, the decision maker by whom the decision was made, and (if the Cabinet is of the opinion that the decision was not a key decision, the reasons for that opinion.

## **20. Record of decisions**

After any meeting of the Cabinet or any of its committees, a record of every decision taken at that meeting will be produced as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## **21. Decisions by individual members of the Executive**

### **21.1 Reports intended to be taken into account**

Where an individual member of the executive receives a report which he intends to take into account in making any key decision, then he will not make the decision until at least 3 clear days after receipt of that report.

### **21.2 Provision of copies of reports to the Overview and Scrutiny Committee**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chairman of the Overview and Scrutiny Committee as soon as reasonably practicable, and (subject to the rules relating to confidential and exempt information) make it publicly available at the same time.

### **21.3 Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the executive or an executive decision has been taken by an employee, a record will be prepared of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 9 and 10 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the executive. This does not require the disclosure of exempt or confidential information.

## **22. Overview and Scrutiny Committee's access to documents**

### **22.1 Rights to copies**

Subject to Rule 22.2 below, the Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or its committees; or
- (b) any decision taken by an individual member of the executive.
- (c) any decision that has been made by an officer of the authority in accordance with executive arrangements.

## 22.2 Limit on rights

The Overview and Scrutiny Committee will not be entitled to any document that is in draft form.

## **4.3 Budget and Policy Framework Procedure Rules**

### **1. The framework for executive decisions**

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 Cabinet to implement it and to monitor its delivery.

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

The policy framework or amendments to it shall be approved by the Council, having considered the proposals of the Cabinet. In formulating its proposals, the Cabinet shall take into account as appropriate the views of local stakeholders, and any views expressed by the Overview and Scrutiny Committee, the Corporate Governance and Audit Committee or any other relevant Committee.

The Council's budgets must be constructed so as to ensure that resource allocations properly reflect the Council's priorities, and the financial principles approved in the medium term financial plan. The process by which the budget shall be developed is:

- (a) A financial strategy based on a rolling five year cycle is risk assessed by Corporate Governance & Audit Committee. This sets out the likely envelope of resources available to the council over the following five years for both revenue and capital spending. This strategy shall be approved by Council, having first been considered by Corporate Governance & Audit Committee and then Cabinet. This strategy will set out the key financial principles to be utilised and key actions that need to be undertaken to ensure the council is able to continue to balance its finances over the medium term.
- (b) The draft budget is prepared following the financial strategy principles, taking into account the council's priorities from the corporate plan. The draft budget shall be approved by Council, having been recommended by Cabinet. Cabinet in considering the draft budget shall take into account any recommendations from the Overview & Scrutiny and Corporate Governance & Audit Committees as appropriate.
- (c) The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the Cabinet's proposals and any recommendations from the Overview and Scrutiny Committee and the Corporate Governance & Audit Committee.
- (d) The Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, unless the Leader objects to it in that period.
- e) If the Leader objects to the decision of the Council, he/she shall give written notice to the Director of Corporate Services to that effect prior to the date upon which the decision is to be effective. The written notification must state

the reasons for the objection. Where such notification is received, the Director of Corporate Services shall convene a Special meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.

- (f) The Special Council meeting should take place within 10 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- (g) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public, and shall be implemented immediately.

### **3. Decisions outside the budget or policy framework**

- (a) Subject to the provisions of paragraph 5 (virement) the Cabinet, individual members of the Cabinet and any officers, area committees or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council, subject to 3(c) and 4 below.
- (b) If the Cabinet, individual members of the executive and any officers, area committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Senior Officers, the Monitoring Officer and the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.
- (c) For the avoidance of doubt, the Cabinet may approve the use of reserves for expenditure not exceeding £100,000 in any case, provided that this does not reduce the general fund reserve below the minimum level approved by the Council, and such approvals shall be regarded as in line with the budget.

### **4. Urgent budget or policy framework decisions**

- (a) The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, area committees or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - i) if it is not practical to convene a quorate meeting of the full Council;  
and



- ii) if the chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chairman of the Overview and Scrutiny Committee the consent of the Chairman of the Council, and in the absence of both, the Vice-Chairman will be sufficient.

- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **5. Virement**

Virement refers to the transfer of a sum from one revenue budget to another. The transfer may relate either to an expenditure budget or an income budget.

Virement can be authorised by the Cabinet and Senior Officers depending on the value of the sum involved. Details are set out in the Financial Regulations in Part 4.8 of this Constitution.

## **6. In-year changes to policy framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet, or officers, area committees or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

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

## **7. Call-in of budget or policy framework decisions**

- (a) Where the Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Senior Officers, the Monitoring Officer and/or the Chief Finance Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief

Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 working days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
- i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; *Or*
  - ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; *or*
  - iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/chief financial officer.

## 4.4 Executive Procedure Rules

### 1. How does the Executive operate?

#### 1.1 Who may make executive decisions?

The arrangements for the discharge of executive functions are set out in the executive arrangements adopted by the Council which may provide for executive functions to be discharged by:

- i) the Cabinet as a whole;
- ii) a committee of the Cabinet;
- iii) an individual member of the Cabinet where expressly authorised by the Cabinet;
- iv) The Senior Officers,
- v) an area committee;
- vi) joint arrangements; or
- vii) another local authority.

#### 1.2 The Council's scheme of delegation and executive functions

- (a) The scheme of delegation for the discharge of the executive functions of the Council is determined by the Leader. The scheme of delegation is set out in Part 3 of this Constitution.

#### 1.3 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If any member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual member, or a member of staff, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### 1.4 Cabinet meetings

The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

## 1.5 Public or private meetings of the Cabinet?

All meetings of the Cabinet will be held in public. Items will be considered in private session only if they qualify under the grounds to exclude the public set out in the Access to Information Procedure Rules.

## 1.6 Quorum

The quorum for a meeting of the Cabinet, or a committee of it, shall be 4 members.

## 1.7 How are decisions to be taken by the Cabinet?

- (a) Executive decisions which have been delegated to the Cabinet will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## 2. How are the Cabinet meetings conducted?

### 2.1 Who presides?

If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader shall preside. If both are absent the Cabinet will elect a chairman for the meeting.

### 2.2 Who may attend?

Councillors who are not members of the Cabinet may attend and observe the proceedings of the Cabinet. They may speak at the meetings if the Leader consents to it (except for the Chairman of the Council).

All Chief Officers and the Chief Finance Officer are entitled to attend and to participate in all meetings of the Cabinet.

The public and press can observe any proceedings of the Cabinet held in public session.

### 2.3 What business?

At each meeting of the Cabinet the following business will be conducted:

- i) signing of the minutes of the last meeting;
- ii) public question time
- iii) matters referred to the Cabinet (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set

out in Part 4 of this Constitution;

- iv) consideration of reports from the Overview and Scrutiny Committee;
- v) consideration of reports from panels and forums; and
- vi) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

## 2.4 Consultation

All reports to the Cabinet on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## 2.5 Who can put items on the Cabinet's agenda?

The following may require an item to be considered at the next available meeting of the Cabinet:-

- the Leader or any other member of the Cabinet
- the Council, the Overview and Scrutiny Committee, the Corporate Governance and Audit Committee, or the Standards Committee
- any Chief Officer
- the Chief Finance Officer or Monitoring Officer

In addition any member of the Council (not on the Cabinet) may request the Leader that an item be considered by the Cabinet and it will be considered only at the discretion of the Leader.

## **4.5 Overview and Scrutiny Procedure Rules**

### **Introduction**

1. The Overview and Scrutiny Committee is the main means by which the Cabinet is held to account. The guiding principle is that it should make a positive impact on the delivery of public services and ensure continuous improvement.
2. Overview and Scrutiny Committees have the power to scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions and may also scrutinise any matters affecting the area or its inhabitants. Scrutiny of external bodies is subject to the agreement of that body, except where there are specific powers of scrutiny, such as the powers to scrutinise partners involved in tackling crime and disorder.

### **Working arrangements**

3. The Council will appoint members to the Overview and Scrutiny Committee as it considers appropriate from time to time.
4. The chairman and vice-chairman of the committee will be appointed by the Council. In the absence of the chairman at a meeting of the committee, the vice-chairman will chair the meeting. In the absence of both the chairman and vice-chairman, a member of the committee will be elected to chair the meeting.
5. The quorum for the Overview and Scrutiny Committee will be four councillors.
6. In addition to the five ordinary meetings of the Overview and Scrutiny Committee in each year, an additional meeting may be called by the chairman of the committee, by any three members of the committee or by a chief officer in consultation with the chairman if he/she considers it necessary or appropriate.
7. The chairman and vice-chairman will work closely together to ensure the proper conduct of the committee.
8. The Overview and Scrutiny Committee and any sub-committee shall be entitled to recommend to Council the appointment of up to two people as non-voting co-optees.
9. No member may be involved in scrutinising a decision in which he/she has been directly involved.

### **Work programme**

10. An outline annual work programme is prepared by members, endorsed by the Overview and Scrutiny Committee and approved by the Council. Items of work can be received in the following ways during the year:
  - a) any member of the council is entitled to require an item to be included on the agenda for the next available meeting of the committee

- b) receipt of a call-in request (dealt with under the Call-In Procedure)
  - c) any item included in the council's Forward Plan, either as a preview to a decision being taken or a review of a decision taken six months after the decision has been taken
  - d) a petition received as part of the council's Petition Scheme with over 500 signatures
  - e) any item on any local crime and disorder or health matter
  - f) any item of joint scrutiny work undertaken by and referred under the auspices of the West Sussex Joint Scrutiny Steering Group for onward transmission to the Cabinet for a decision.
11. The Overview and Scrutiny Committee may from time to time appoint ad hoc informal working arrangements such as scrutiny task and finish groups, Member working groups (including Standing Panels) or carry out one-off topic specific scrutiny reviews.
12. **Task and finish groups** may be set up, in accordance with the Protocol on Task and Finish Groups in Part 5 of this Constitution, to consider a specific topic for a fixed period, on the expiry of which they shall cease to exist. Scrutiny task and finish groups will consist of four to five members drawn from the Overview and Scrutiny Committee membership. If there is insufficient interest by committee members, volunteers will be sought from the wider council membership. Task and finish groups are not open to the public as the final report will normally be considered by the Overview and Scrutiny Committee in public session.

### **Procedure at Overview and Scrutiny Committee meetings**

13. The Overview and Scrutiny Committee shall consider the following business:
- a) minutes of the last meeting;
  - b) declarations of interest (including whipping declarations);
  - c) consideration of any matter referred to the committee for a decision in relation to the call-in of a decision;
  - d) responses of the Cabinet to reports of the Overview and Scrutiny Committee; and
  - e) the business otherwise set out on the agenda for the meeting.
14. The committee may request people to attend to give evidence at committee meetings which 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.

- 15. Following any investigation or review, the committee or its appointed sub-committee shall prepare a report for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public, subject to confidentiality requirements of the matter being considered.

### **Speakers giving evidence**

- 16. The Overview and Scrutiny Committee or its task and finish groups may require any member of the Cabinet or any senior officer to attend before it to explain in relation to matters within their remit. Other public sector or public service officials, external partners and/or residents and stakeholders may also be invited to address the committee, discuss issues of local concern and/or answer questions.

### **Documentation**

- 17. The Overview and Scrutiny Committee and its task and finish groups can see a range of background information from any relevant document in the council's possession including council plans and strategies, as well as external documents.
- 18. In addition to their rights as councillors, members of the Overview and Scrutiny Committee have the additional right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

### **Conclusions and recommendations from a meeting**

- 19. The chairman of the committee should be satisfied that a matter has been properly discussed, and the views of any minority reasonably heard, before closing a debate or accepting a motion. It is good practice for the chairman to sum up the debate prior to finalisation of recommendations.
- 20. On completion of a scrutiny review carried out by a sub-group such as a task and finish group, a report will be considered by the committee and recommendations made as appropriate to the Cabinet.
- 21. Recommendations may be made to the Cabinet or directly to Council. In scrutinising an external partner or partnership, the recommendations may be made directly to that body.
- 22. The views of the Overview and Scrutiny Committee may be reported to the Cabinet or the Council, and the chairman of the committee shall be entitled to address the meeting on the committee's views.
- 23. If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or the Cabinet then up to one minority report may be prepared and submitted for consideration by the meeting with the majority report and a member representing the minority view may, with the chairman's consent, address the meeting.



24. The committee will consider and endorse its annual report summarising the work of the committee and its task and finish groups and recommend this to the Council.

### **Call-in procedure**

25. A 'call-in' is where the Overview and Scrutiny Committee decides to review a decision made by the Cabinet or one of its members before the decision is implemented. Call-ins should be used only in exceptional circumstances.
26. A decision is made by the Cabinet or one of its members but the decision does not come into effect until a call-In period has elapsed.
27. Within two working days of the decision being made, the Member Services Team will notify all council members of the decision, stating the date of the notification, and the date the decision will come into effect if there is no call-in on it. The "effective date" of the decision is normally at 10am on the day after the expiry of three clear working days from the notification to Members, excluding Saturdays, Sundays and Bank Holidays. (For example, in respect of a decision made by the Cabinet on a Tuesday, notification will be given to all members by Thursday of the same week, and the effective date of the decision will be 10am on the following Wednesday.)
28. A request for a call-in of the decision must be received by the Member Services Team between the date of notification to members and the effective date of the decision.
29. For the call-in to be valid, the request must satisfy all of the following provisions:-
- i) Be in writing (on paper or e-mail)
  - ii) Specify the decision which is to be the subject of the call-in.
  - iii) Be supported by at least five members of the council excluding members of the executive.
  - iv) Written confirmation that such members have each considered all of the following matters before requesting a call-in of the decision:-
    - a) Whether the decision is likely to cause distress, harm or significant concern to a local community, or to prejudice individuals within it.
    - b) Whether the matter has been subject to consultation or debate with relevant interested parties.
    - c) Whether the delay in implementing the decision is likely to cause significant harm to the council or others.
    - d) Whether the decision is against an approved policy or budget provision of the council.
    - e) Whether the decision was made against the advice of professional staff.

- f) Whether the decision is contrary to a provision in the Community Strategy, the Corporate Plan or other Policy Framework document or the Budget.
  - g) Whether the decision-maker complied with the decision making principles set out in Article 13 of the constitution.
  - h) Whether the views of the members requesting the call-in were taken into account in arriving at the decision.
- (v) State the reasons for the call-in of the decision and specify the evidence which demonstrates the alleged breach of any of the criteria listed in 29(iv) above.
30. The call-in request will be considered by the chairman of the Overview and Scrutiny Committee to decide whether criteria (a)-(h) above have been met and whether the call-in request should be referred for consideration at a meeting of the Overview and Scrutiny Committee.
31. If having considered the decision, the Overview and Scrutiny Committee is still concerned about it, the committee may:
- a) refer it back to the decision-maker for reconsideration, setting out in writing the nature of the Committee's concerns
  - b) refer the matter to Council setting out in writing the nature of the committee's concerns;
  - c) decide that neither a) or b) above applies in which case the decision will be effective immediately thereafter and will not be subject to further call-in.
32. If the matter is referred back to the decision-maker, they shall consider the concerns of the committee as soon as practicable, amending the decision or not, before adopting a final decision.
33. If the matter is referred to Council, and the Council does not object to the decision, the decision will be effective immediately thereafter.
34. However, if the Council does object to the decision, it may
- (a) overrule the decision if it is against an approved policy or budget provision of the council, or
  - (b) refer it back to the decision-maker with the views of the Council - in this case the decision-maker shall, as soon as practicable, consider the Council's views and make a final decision, and the decision shall then be implemented.
35. If the Overview and Scrutiny Committee does not meet within one calendar month from the date of the request for the call-in, or does meet but does not refer the matter back to the decision-maker, or to full Council, the decision shall take effect on the date of the Overview and Scrutiny Committee meeting, or on the expiry of the one month period, whichever is the earlier.

## **Urgent Decisions**

36. The call-in procedure set out above shall not apply where the decision being taken by the Cabinet or one of its members is considered by them to be urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the council's interests or the public's interests. The record of the decision shall state whether in the opinion of the decision-maker the decision is an urgent one, and therefore not subject to call-in. The consent of the chairman of the Council must be obtained both that the decision is reasonable in all the circumstances and to it being treated as a matter of urgency. (In the absence of the chairman, the vice-chairman's consent shall be required and in the absence of both, the Chief Executive or his/her nominee's consent shall be required.) Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

## **The party whip**

37. When considering any matter in respect of which a member of the Overview and Scrutiny Committee is subject to a party whip a nominated member of the party must declare the existence of the whip and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## **4.6 Staff Employment Procedure Rules**

### **1. Recruitment and appointment generally**

#### **(a) Declarations**

- i) The Council will draw up a statement requiring any candidate for appointment as an employee 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 employee of the Council or of the partner of such a person.
- ii) No candidate so related to a councillor or an employee will be appointed without the authority of the relevant chief officer or an employee nominated by him/her.

#### **(b) Canvassing support for appointment**

- i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly canvasses 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.
- ii) Subject to paragraph (iii), no councillor or employee will seek support for any person for any appointment with the Council as this would lead to disqualification of the applicant.
- iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

### **2. Recruitment and Appointment of Senior Officers**

Please refer to Part 4.1 paragraph 26 for the recruitment and appointment process of Senior Officers.

### **3. Other appointments**

Appointment of officers below Director level is the responsibility of the Directors or their Divisional Managers and shall not be made by councillors.

### **4. Disciplinary action**

Disciplinary action against the Chief Executive, the Monitoring Officer and the Chief Finance Officer should be in accordance with the Council's approved Disciplinary Procedure for the Chief Executive, Chief Finance Officer and Monitoring Officer.

Disciplinary action for all other officers, including Senior Officers and should be in accordance the Council's approved Disciplinary and Contract Termination Procedure.

## 5. **Dismissal**

Councillors will not be involved in the dismissal of any employee below Director level, other than the Monitoring Officer, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

## **4.7 Complaints Scheme**

### **Section 1 Introduction**

Chichester District Council tries to make sure that the public always receive a first class service. We hope the public will never need to complain. Sometimes the Council may fail to meet the high standards that it sets for itself and that the public deserve. However, on occasion the Council is required to act in the wider public interest or is compelled to act in a prescribed manner by law - in which case the views of an individual may not coincide with those of the Council.

The Council recognises that sometimes things do go wrong. When they do, the Council wants to deal with the problem fairly and promptly and to take action to prevent similar occurrences in the future.

The Council is keen for the public to make their views known in order that investigations can be undertaken and service improvements made wherever required.

In the first instance, the Council expects issues to be resolved before the need for a formal complaint. Sensible discussion with the service concerned should be fully explored.

### **Section 2 What is a Complaint and what is not a Complaint?**

It is important that we understand what exactly is meant by a complaint, in order that they are accurately recorded and that they can be dealt with in the appropriate way.

Many "complaints" by customers are in fact queries about the service, whereas others are genuine complaints about the way in which their application or case has been handled, about procedures followed, or about service provision.

Senior Manager in this scheme refers to a senior manager reporting directly to a Senior Officer.

#### **What is a Complaint?**

A complaint may arise where the Council has:

- ✓ Failed to do something it should have done
- ✓ Done something it shouldn't have done
- ✓ Done something badly
- ✓ Treated someone unfairly, slowly or rudely
- ✓ Failed to satisfactorily investigate a complaint about an incident of a racist nature.

Examples:

"I believe that your officers have been biased against me in my application for Housing Benefits", is a complaint.

"I think that the Council has behaved in an unprofessional way in dealing with my planning application", is a complaint

“When the bin was returned to my drive way, I found that it had been damaged beyond repair by your bin men”, is a complaint

### **What is not a Complaint?**

“I disagree with the amount of Housing Benefit I have been awarded, because.....” is not a complaint – but a further explanation of how the benefit was awarded should be supplied.

“I disagreed with your reasons for refusing my planning application” is not a complaint, but a further explanation of why the decision was made should be supplied.

“The bin men didn’t pick up my bin today” is not a complaint, but arrangements should be made to pick up the bin as soon as possible.

Comments, favourable or unfavourable, where the person concerned does not wish to take the matter further is not a complaint

Criticisms of a policy adopted by the Council is not a complaint

It is important to state that whether officers are dealing with a query about the service, or a genuine complaint, that the customer feels that he or she has been dealt with in a fair and professional manner, and that they are, as far as is possible, satisfied with the outcome. The Council advises officers to “Treat customers as you would wish to be treated”.

### **Section 3 Complaint Stages, 1, 2, and 3**

A complaint may be received in written form, by letter, the “Complaints leaflet”, electronically, via email, the web site etc., or verbally. If the complaint is verbal, e.g. by phone, the customer should be encouraged to put it in writing, especially if the complaint involves a serious allegation about an officer, or council activity. It is also essential that a complaint, which may give rise to an insurance claim, be in writing for onwards transmission to the Council’s insurers.

Senior Officers in conjunction with the Director of Corporate Services are able to make payments to the customer by way of compensation, but “without prejudice”, under section 92 of the Local Government Act 2000. Payments may be up to a maximum of £500. The Chief Executive is responsible for making payments above this amount. If injustice is found, the Council undertakes to review its procedures.

#### **Stage 1**

When a complaint is received, it is dealt with by the relevant Manager.

If the complaint is received by post or electronically, it should be acknowledged in writing within 3 working days, and within 10 working days the customer will be provided with a full explanation and details of how the situation will be resolved, or in complicated cases, a progress report within 7 working days stating when a full response may be expected.

If a customer completes a complaint form and hands it to an Officer, that Officer must record the date and time of receipt on the form, together with their name and job

title and take a copy for the customer to retain before passing to the Central Complaints Administrator.

It is sometimes the case that a customer will write in directly to the Chief Executive with a complaint. In normal circumstances, (except in cases of serious charges against officers), the Chief Executive will pass the complaint to the relevant Manager to resolve the case at Stage 1 level.

When responding to a Stage 1 complaint with the outcome of the investigation the Senior Manager must advise the complainant of their option to request their complaint be dealt with at Stage 2 should they be dissatisfied with the Stage 1 investigation.

## **Stage 2**

Where the customer is not satisfied with the explanations or the remedy offered following investigation at Stage 1 level, the customer can request the matter be reviewed. All stage 2 complaints should be forwarded to the relevant Director who will investigate the complaint and respond to the customer.

The review within Stage 2 may involve more extensive investigations, interviews with relevant officers, the customer who made the complaint, other members of staff (as determined by the investigating Director), and in some cases an on-site visit. In more serious cases, where for example, a serious complaint has been made about a member of staff e.g. a Manager, the complaint handling process may bypass Stage 1, and move directly to Stage 2.

As with Stage 1, the complaint will be acknowledged within 3 working days, and within 10 working days the customer will be provided with a full explanation and details of how the situation will be resolved, or in complicated cases, a progress report within 7 working days stating when a full response may be expected.

When responding to a Stage 2 complaint with the outcome of the investigation the Head of Service must advise the complainant of their option to request an independent investigation by the Local Government Ombudsman should they be dissatisfied with the Stage 2 investigation and must provide the Ombudsman's contact details.

## **Stage 3**

Should a customer remain dissatisfied with the explanations or the remedy offered following investigation at Stage 2, they may have the right to submit a complaint to the Local Government Ombudsman, who is independent of the Council. The Ombudsman has the same powers as the High Court, and can order anyone to produce documents for their investigation.

It is sometimes the case that the Ombudsman will receive a complaint which has not previously been raised with the Council, and which we have not had an opportunity to comment on or resolve. In these circumstances, the Ombudsman will normally refer them back to the Council to seek resolution at local level. These will normally be referred to the Stage 1 process, except in the most serious allegations, where it would go straight to Stage 2.



[Local Government Ombudsman Online Complaints Form](#)

#### **Section 4 Formal Complaints against Councillors or the Chief Executive**

A complaint concerning the conduct of a Councillor should be referred directly to the Council's Monitoring Officer who will investigate the complaint in accordance with the Members Code of Conduct and Standards Committee.

A complaint concerning the conduct of the Chief Executive or an Executive Director should be made to the Chairman of the Council.

#### **Section 5 The Role of the Service Complaints Administrators & Senior Managers**

Each Director should identify appropriate officers to administer complaints handling to be referred to in this scheme as a Complaints Administrator. The role is one of logging the complaint with Customer Services and acknowledging it, passing the complaint to the relevant Manager for investigation, monitoring progress, and reporting the outcome of decisions to the Central Complaints Administrator (within Customer Services).

The relevant Manager should be an officer directly reporting to the Director, with experience of the operations of the service to which the complaint relates.

The relevant Manager may be nominated by their Director to fulfil both the role of relevant Manager and Complaints Administrator.

The relevant Manager should:-

- Investigate the complaint at the Stage 1 level
- Look at a complaint from a service point of view
- Communicate with the customer directly, including answering correspondence
- Ensure the Council's complaints response times are adhered to
- The Service Complaints Administrator should:-
  - Maintain a register of complaints and data for the relevant Manager and the central monitoring process
  - Ensure the Central Complaints Administrator is kept informed of progress of a complaint and such progress is recorded in the CRM

#### **Section 6 The Role of the Central Complaints Administrator**

The Central Complaints Administrator is one of the functions of the Director of Residents' Services and her role is to:

- Provide information, statistics and trends on Stages 1, 2 and 3 Level complaints to the Senior Leadership Team, Corporate Governance and Audit Committee and Standards Committee as required.
- To be the central reference point for formal complaints.
- To be the Council's "Link Officer" with the Ombudsman, ensuring that Ombudsman

cases are dealt with in a timely manner.

- To ensure that the list of Complaints Administrators and relevant Managers is up to date.
- To ensure new officers are aware of the formal complaints procedure.
- Maintain and update the Council's Complaints procedure and public information as appropriate.
- Attend meetings of the Corporate Governance and Audit Committee and Standards Committee as requested.

## **Section 7 The Role of the Chief Executive**

The Chief Executive has overall responsibility for the management of the Council's complaints system and procedures, and for ensuring that: -

- Through relevant Managers, Stage 1 complaints are resolved as appropriate.
- That Stage 2 complaints are thoroughly investigated by the appropriate Director or herself (depending on the gravity of the complaint).
- That Ombudsman complaints are resolved as appropriate and are reported to the Corporate Governance and Audit Committee.

## **Section 8 The Role of the Standards Committee**

This Committee will consider reports from the Monitoring Officer concerning complaints about the conduct of Members.

## **Section 9 The Role of the Corporate Governance and Audit Committee**

The Corporate Governance and Audit Committee will receive reports from the Central Complaints Administrator on an annual basis. Its main functions are;

- To ensure that information / opportunities for improvement in the handling of complaints (and in preventing complaints) are shared.
- That actions required to effect an improvement are followed through.
- To analyse trends in a particular service or across services and act upon them.
- To ensure that Cabinet (through the Portfolio Holder) are fully aware of the situation on complaints.

## **Section 10 The Role of Other Officers of the Council in the Complaints Procedure** **The Monitoring Officer**

The Council's Monitoring Officer will conduct investigations into matters referred by Ethical Standards Officers on issues concerning Members, and make reports or recommendations in respect of them to the Council's Standards Committee.

The Monitoring Officer must be consulted if an Executive Director of the Treasurer wishes to make a payment to the customer by way of compensation

Director of Corporate Services / Financial Services Divisional Manager

The Director of Corporate Services and the Financial Services Divisional Manager, acting in their role as advisor to the Council on Insurance matters, must be kept fully informed of any complaints which may give rise to an insurance claim or possible liability issue.

It is important to remember that admitting liability can prejudice any defence which the Council or our insurance company may wish to make, and could lead to the insurance company refusing to meet any financial liabilities arising from such an admission.

The District Treasurer must be consulted if an Executive Director wishes to make a payment to the customer by way of compensation

### **The Director of Housing and Communities**

The Director of Housing and Communities is responsible for investigating and recording complaints of a racial nature.

## **4.8 Financial Regulations**

### **Overall Financial Responsibilities**

#### **All Councillors and Officers**

All actions and decisions must be to support the Council's Corporate Plan and the Sustainable Community Strategy, in accordance with Council policies and strategies, comply with legal requirements and to attain value for money the community.

#### **Director of Corporate Services (Chief Finance Officer)**

The responsible Financial Officer in accordance with Sections 114 of the Local Government Act 1988 and 151 of the Local Government Act 1972 and, under the general direction of the Cabinet, is responsible for the proper administration of the Council's financial affairs.

The Chief Executive and the Financial Services Divisional Manager (Deputy S.151 Officer) are given authority to act on behalf of the Chief Finance Officer in all financial matters.

#### **Senior Officers**

1. Consult with the Chief Finance Officer regarding any matter within their range of responsibilities which could potentially adversely affect the Council's finances, prior to incurring any commitment.
2. Designate officers to administer the financial and accounting matters in that service and agree with the Chief Finance Officer the limits of financial responsibility for each officer.
3. Consult the Chief Finance Officer before introducing, amending, discontinuing or disposing of any accounting record or procedure relating to cash, stores, equipment, income or expenditure.
4. Have the following responsibilities:
  - (a) To maintain budgetary control in their service areas, and ensure that all income and expenditure is properly recorded and accounted for.
  - (b) To ensure spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
  - (c) To review performance of services in conjunction with the budgets, and ensure they are operating effectively.
  - (d) To ensure prior approval by Council or Cabinet (as appropriate) for new proposals that:
    - (i) create financial commitments in future years
    - (ii) change existing policies, initiate new policies or cease existing policies

- (iii) materially extend or reduce the authority's services.

## **Budget Managers**

Designated by their Directors as being responsible for specified budgets relating to the service for which they manage.

## **Medium Term**

The Council will develop a medium term financial strategy and a financial plan in order to deliver balanced budgets over the medium term. These documents will be subject to review, at least annually by the Cabinet.

## **Financial Planning**

1. The Chief Finance Officer has a responsibility to:-
  - (i) manage the annual budget preparation process in accordance with the Council's budget strategy and budget timetable;
  - (ii) inform Senior Officers and budget managers about the budget strategy, the annual budget timetable and their involvement in the process;
2. Senior Officers have a responsibility to:-
  - (i) assist the Chief Finance Officer, as directed, in the preparation of revenue and capital estimates;
  - (ii) annually review and scrutinise every budget within their control;
3. Medium Term Budget Strategy (5 years)

The medium term budget strategy shall have regard to the following criteria:

- (i) be constructed to resource the forthcoming Corporate Plan;
- (ii) identify and quantify all known factors likely to impact on the Council's budget in the medium term (the financial risk matrix);
- (iii) use the service review process to identify efficiencies in order to maintain a balanced budget over the medium term;
- (iv) have regard to the current and potential legislative and national financial issues;
- (v) community needs and taxation implications.

Proposals against any new policy initiative, revenue or capital resources can be considered at any stage during the financial year providing they generate a measurable benefit to Corporate Plan objectives.

5. Capital

- (i) The capital programme shall be based on the Corporate Plan and

Sustainable Community Strategy which will identify the need for investment.

- (ii) A capital scheme can only start with specific Cabinet approval (and Council if funded from reserves).
- (iii) Projects with a significant outcome for the community will require approval from the Strategic Leadership Team (SLT) prior to approval by Cabinet.
- (iv) Each capital proposal over £175,000 will include:
  - an option appraisal and Project Initiation Document (PID),
  - judgement about the expected outcomes and the contribution towards meeting specific Corporate Plan targets (a business case),
  - detailed capital estimates on a whole life cost basis,
  - revenue implications, including details of how they will be met
  - external funding opportunities, identifying any associated risks
  - consideration of risk management and health and safety issues,
  - overall monitoring during implementation of the scheme
  - an exit strategy
  - alternative methods of delivering the desired outcomes
- (v) Approval of the capital programme constitutes an acceptance of the need to invest and recognition of both the priority relative to other initiatives and resource availability.
- (vi) Detailed project management of each capital proposal shall be carried out by a project group of officers operating to the Council's approved project management guidance and Contract Standing Orders reporting to SLT and/or Cabinet. The constitution of the project group will depend on the size, cost and nature of the project. All major projects shall include a representative of the Chief Finance Officer to ensure that all governance issues are complied with; this person shall have no operational responsibilities within that team. (A major project is currently defined as any project estimated to exceed £175k as stated in the council's Project Management Guidance).
- (vii) A post project appraisal shall be carried out within 6 months of handing over the asset to the operational manager.

## 6. Income

- (i) All Senior Officers have the authority to increase fees and charges by the appropriate indices, as advised by the Chief Finance Officer or as otherwise prescribed by the Council's Charging Policy.
- (ii) Income estimates must provide for a prudent contribution to provisions in respect of potential bad debts and write offs, as advised by the Chief Finance Officer.

## Budgetary Control

Each of the Council's budgets will be delegated to a designated budget manager.

### 1. Cabinet responsibilities:

- (i) Determine all increases in capital budgets in excess of 10% or £50,000, whichever is less, subject to the availability of funding.
- (ii) Determine individual asset renewal projects over £175,000 funded from the asset renewal programme.
- (iii) Approve the use of reserves for expenditure not exceeding £100,000 in any case, provided that this does not reduce the general fund reserve below the minimum level approved by the Council.
- (iv) Receive a report of all increase in capital budgets approved by Senior Officers.

2. The Chief Finance Officer has a responsibility to:

- (i) actively support Senior Officers and budget managers in meeting their budgetary control responsibilities;
- (ii) provide appropriate and accurate financial advice;
- (iii) assist budget managers to exercise proper financial management responsibility in a way which positively contributes to the financial health of the Council as a whole.

3. Senior Officers have a responsibility to:

- (i) ensure their budget managers operate within the Financial Regulations;
- (ii) determine an increase in a capital budget of up to 10% or £50,000, whichever is less, subject to the availability of funding.
- (iii) Determine individual asset renewal projects up to £175,000 funded from the approved asset renewal programme in consultation with the Chief Finance Officer.
- (iv) Subject to liaison with the Chief Executive or Chief Finance Officer (in consultation with the Leader), incur expenditure which is essential to meet any immediate needs created by a sudden emergency which comes within Section 138 of the Local Government Act 1972 i.e. an emergency or disaster involving destruction of or danger to life or property, occurs or is imminent, or to meet other legal obligations.

4. Budget Managers have a responsibility to:

- (i) Only incur expenditure or vire budget provision for which they have approved budgets or specific authority.
- (ii) Monitor and control revenue and capital expenditure and income under their control.
- (iii) Submit periodic capital and revenue monitoring reports to members.

- (iv) On becoming aware of a potential overspend either take remedial action to prevent such an overspend or submit a virement proposal prior to the overspend occurring.
- (v) Should a need to incur unavoidable or non-controllable expenditure be identified, a proposal for a supplementary estimate shall be submitted to Cabinet.
- (vi) Not to take any action which will reduce income, without a prior virement.
- (vii) As advised by the Chief Finance Officer, at the end of every financial year make a prudent contribution to the bad debts provision against which any irrecoverable debts will eventually be written off.

## **Virement**

Definition: The transfer of any budget provision, either permanently or temporarily. The transfer may relate either to an expenditure budget or an income budget. Restrictions may apply to transfers between capital and revenue budgets.

### **Virement Rules:**

Having had regard to value for money principles, approved budgets may be vired to another purpose in accordance with the following levels of authority:

#### **Cabinet**

1. Determine all virements over £50,000.

#### **Individual Cabinet Members**

2. Determine (in consultation with the appropriate Senior Officers, Divisional Managers and the Chief Finance Officer) budget virements between £20,000 and £50,000.

NB. If the virement is between portfolio holder responsibilities, both Cabinet members need to agree to the virement.

#### **Senior Officers**

1. Determine virements up to £20,000.
2. In conjunction with the Director of Corporate Services determine all recurring virements which affect employees or their conditions of service. In conjunction with the Director of Corporate Services determine all virements relating to training budgets.

#### **Budget Managers**

1. Determine virements up to £5,000.

Exceptions to virements by staff



2. Proposed expenditure of a recurring nature cannot be funded from non-recurring savings.
3. Proposed expenditure cannot be funded from additional income until the income has been received or is contractually committed.
4. Proposed expenditure cannot be funded from additional income unless the income and expenditure are linked, i.e. demand led services.
5. Savings cannot be proposed against expenditure controlled by a different budget manager without his prior specific approval.

Virement approval procedure:

1. Details of all proposed virements must be provided to the Chief Finance Officer on a virement request form and certified by the appropriate employee.
2. Senior Officers will be responsible for reporting virement requests to Cabinet where approval is required.
3. The Chief Finance Officer will be responsible for reporting approved virements to members and for actioning approved virements.

## **Financial and Service Performance**

### **Revenue Outturn Reporting:**

1. At the end of each financial year, the Cabinet may determine that unspent balances of a specific nature may be carried forward into the following financial year, and that overspent budgets of a specific nature may be clawed back from the appropriate budget in the following financial year.
2. Prior to 30th September, or any statutory deadline that may be introduced, the Chief Finance Officer will submit a report to the Corporate Governance and Audit Committee on the draft annual accounts along with the revenue outturn performance for the preceding financial year.

### **Capital Schemes:**

Within six months of the capital scheme becoming operationally complete, a report shall be submitted to the SLT and the Cabinet:

- (i) final cost of the scheme and reasons for any variations from the approved budget;
- (ii) an assessment of the benefits arising from the scheme, in relation to Sustainable Community Strategy objectives.

### **Accounting**

1. The Chief Finance Officer has a responsibility to:-
  - (i) Complete the annual accounts of the Council in accordance with the Accounts and Audit Regulations. Submit the draft accounts to the Corporate

Governance and Audit Committee and, after the conclusion of the Audit of Accounts, report on any amendments made to the accounts as a result of the external audit.

- (ii) Determine all accounting procedures and financial records in accordance with statutory regulations, professional codes of practice and current guidance notes.
  - (iii) Compile all accounts and accounting records of the Council.
  - (iv) Advise on the appropriate timing of the disposal of accounting records.
2. There must be clear separation of duties between the provision of information regarding amounts due to or from the Council and the accounting for those sums.
  3. Officers responsible for examining and checking the accounts of cash transactions shall not themselves be engaged in any of those transactions.
  4. Staff responsible for cash or funds shall submit accounts in accordance with the requirements of the Chief Finance Officer.

### **Internal Audit Service**

1. The Internal Audit Service will provide a continuous and independent appraisal and review of all internal control systems. It will objectively examine, evaluate and report upon the adequacy of such internal controls as a contribution towards Corporate Plan objectives, value for money practices, the proper and efficient use of resources and to minimise the risk of irregularity. It will operate a managed audit process in co-operation with the External Auditor.
2. The findings and recommendations from each audit review shall be reported to Corporate Governance and Audit Committee.
3. The Chief Executive or his authorised representative has a responsibility to:
  - (i) enter Council property or land at all times;
  - (ii) have access to all records, documents and correspondence relating to any transactions of the Council;
  - (iii) request and receive such explanations as are necessary concerning any matters under examination;
  - (iv) require any officer to produce cash, stores or any other property under his control;
  - (v) require the assistance of officers at all levels of the Council in the preparation of internal audit reports;
  - (vi) make arrangements for investigation, reporting and subsequent action regarding any suspected irregularity.

4. Senior Officers and all managers have a responsibility, and other officers have a duty to:
  - (i) maintain the internal control systems;
  - (ii) ensure resources are properly applied and in a manner and on activities consistent with Corporate Plan objectives;
  - (iii) implement appropriate systems of control in order to prevent and detect fraud and other illegal acts;
  - (iv) notify the Chief Finance Officer of any matter thought to involve irregularities concerning Council assets or service delivery.
5. The Internal Audit Service will be conducted in accordance with the latest professional guidance including close co-operation with the external auditor.
6. An annual audit plan of agreed objectives will be produced and used to monitor the service.

### **Banking Arrangements**

1. The Chief Finance Officer has a responsibility to:
  - (i) make all necessary banking arrangements and operate the necessary bank accounts;
  - (ii) order, issue and make proper arrangements for the safe custody of cheques;
  - (iii) agree a list of other officers authorised to sign cheques and release money by other methods of payment;
  - (iv) issue corporate charge / credit cards, together with instructions for their use.
  - (v) make 'daylight' and 'overdraft' facilities with the Council's bankers, within the overall borrowing policy;
  - (vi) make arrangements for the safe transit and transmission of cash and cheques.
  - (vii) nominate appropriate post holders to fulfil the role of bank signatories.
2. Cheques on the Council's main banking accounts will be electronically signed by the Chief Finance Officer.
3. The banking arrangements will be subject to value for money practices with a review of banking services being carried out at least every five years.

### **Treasury Management**

1. The Council will create and maintain, as the cornerstone for effective treasury management (TM):

- a treasury management policy statement, stating policies, objectives and approach to risk management of its treasury management activities
- suitable treasury management practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

The context of the policy statement and TMPs will follow the recommendations contained in the CIPFA Code of Practice on TM of the Code

2. The authority will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.
3. The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to Cabinet, and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with the organisation's policy statement and TMPs and, if the Chief Finance Officer is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.

This organisation nominates the Corporate Governance and Audit Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

## **Insurances and Risk Management**

1. The Chief Finance Officer has a responsibility to:
  - (i) annually review all external and self-funded insurances and assess the amount of insurance cover to be maintained by both sources of provider;
  - (ii) arrange all insurance cover and negotiate claims within the overall insurance policy;
  - (iii) arrange fidelity guarantee insurance for all employees;
  - (iv) negotiate and settle all claims falling below insurance thresholds, self-insured risks, ex gratia claims;
  - (v) incur any necessary expenditure in meeting recoverable insurance claims subject to prior consultation with the Council's insurers.
  - (vi) to support the Corporate Risk Group.
2. Senior Officers and all managers have a responsibility to:
  - (i) give prompt notification of the extent and nature of new insurable risks, newly acquired properties, assets, liabilities and rights of services under their control;
  - (ii) give written notification of any loss, liability, damage or event potentially

leading to a claim;

- (iii) consult the Chief Finance Officer regarding the terms of any indemnity;
  - (iv) give prior notification of work to be undertaken by staff on behalf of other bodies.
  - (v) support the Corporate Risk Group.
3. The insurance arrangements will be subject to value for money practices with a review of insurance services being carried out at least every five years.

## **Income**

1. The Chief Finance Officer has a responsibility to:
- (i) ensure there are satisfactory arrangements for collection, custody, control, disposal and prompt and proper accounting for all cash, remittances and income;
  - (ii) inspect any documents;
  - (iii) make arrangements for the order, control and issue of all official receipts, tickets and vouchers;
  - (iv) approve arrangements for the safe keeping of cash and safe keys;
  - (v) approve write offs of amounts due if satisfied that the debt is irrecoverable, not attributable to fraud, theft or error of employee and that all practicable steps have been taken to recover the debt. The total of all such write offs shall be published for members' information.
2. All officers and nominated contractors have a responsibility to:
- (i) notify the Chief Finance Officer of all contracts, deeds and arrangements involving the receipt of money;
  - (ii) comply with the income arrangement determined by the Chief Finance Officer;
  - (iii) minimise cash held overnight, make secure arrangements for its safe keeping and not exceed limits laid down by the insurers;
  - (iv) maintain strict segregation of personal money and cheques from Council monies;
  - (v) maintain signed records of every transfer of official money between officers.
3. Prescribed receipts or tickets must be issued at the time payment is received.
4. All money must be paid into the Council's bank account or at a nominated cash point daily or at agreed intervals. No deductions may be made from such money unless authorised by Chief Finance Officer.

5. Cheques shall be listed on receipt with the receipt number noted on the reverse side of the cheque.
6. These accounting arrangements for Council income will apply to direct employees and external contractors operating on behalf of the Council.

### **Ordering of Works, Goods and Services under Official Orders**

1. The Chief Finance Officer has a responsibility to:
  - (i) determine arrangements for the placing of and accounting for official orders for works, goods and services; whether in electronic or paper format;
  - (ii) determine appropriate authorisation levels for individual officers to authorise orders and/or payment of invoices.
  - (iii) Waive ordering requirements in exceptional circumstances e.g. utility services, periodic payments, rent and rates.
  - (iv) report any breaches of Contract Standing Orders, where the contract value is in excess of £50,000 to the Corporate Governance and Audit Committee.
2. Senior Officers and all managers have a responsibility to:
  - (i) pursue value for money when placing each order;
  - (ii) establish that there is sufficient approved budget provision before issuing an order;
  - (iii) observe Contract Standing Orders when obtaining tenders and quotations;
  - (iv) seek annual tenders or quotations where goods and services are obtained regularly under agreement from a supplier;
  - (v) use any central purchasing arrangements for equipment or materials and state on each order:-
    - the tendered or quoted price of the work, goods or services;
    - complete and accurate identification of the work, goods and services;
      - the quotation, contract or agreement;
  - (vi) confirm oral orders by an official order on the same day;
  - (vii) only pay invoices for which there is an official order;
  - (viii) only use the Council's electronic ordering system except in exceptional circumstances where an official paper order must be used;
  - (ix) maintain a list of staff and specimen signatures, to the Chief Finance Officer, who are authorised to approve orders.
  - (x) report any breaches of Contract Standing Orders to the Chief Finance Officer.

## **Payment of Accounts**

1. The Chief Finance Officer has a responsibility to:
  - (i) promptly make all payments;
  - (ii) determine arrangements to ensure that before payment, the liability has been properly incurred and not previously discharged.
2. Senior Officers and all managers have a responsibility to:
  - (i) make proper arrangements for promptly checking, coding and certifying all invoices, claims and accounts except where invoices are matched electronically to properly approved orders using the Council's electronic ordering system. Invoices in excess of £2,000 must be individually checked and electronically certified by an authorised signatory. Orders over £10,000 will also require a second approver;
  - (ii) promptly send all invoices, claims and accounts to the Chief Finance Officer for payment;
  - (iii) maintain a list of officers and specimen signatures, to the Chief Finance Officer, who are authorised to approve invoices;
  - (iv) ensure there is a division of duties between processing of orders, receipt of goods and services and certification of invoices;
  - (v) obtain all discounts and avoid interest charges by promptly processing accounts;
  - (vi) determine reasons before certifying amendments to accounts;
  - (vii) notify the Chief Finance Officer of accounts relating to the previous financial year.
3. All vouchers and documents must be retained until after the completion of the annual audit of accounts.
4. All requests, including the reason, for the redirection of cheques must be submitted on a redirection request slip, and sent to for consideration by the Chief Finance Officer or other bank signatory in his absence.

## **Salaries, Wages and Pensions**

1. The Director of Corporate Services has a responsibility to:
  - (i) make payment of salaries, wages and expenses to employees, former employees and all agency staff;
  - (ii) make arrangements for maintaining time records and pay documents.
2. Senior Officers and all managers have a responsibility to:

- (i) notify the Director of Corporate Services of all matters affecting payments to employees or former employees including appointments, regulations, dismissals, suspensions, secondments, transfers, absences from duty other than approved leave and changes in remuneration;
- (ii) provide information to maintain records of income tax, pension, national insurance and pensions;
- (iii) make appointments in accordance with Council regulations, approved staffing establishments, budgets, grades, rates of pay and employment contracts;
- (iv) maintain a list of officers and specimen signatures, to the Director of Corporate Services, who are authorised to sign salaries and wages records.

### **Petty Cash Accounts and Floats**

1. The Chief Finance Officer has a responsibility to:
  - (i) maintain a system of accounts for officers incurring petty cash and other minor expenses;
  - (ii) maintain a list of officers administering petty cash funds and floats.
2. Senior Officers, managers and staff have a responsibility to:
  - (i) only use the petty cash account for minor items of expenditure;
  - (ii) provide receipts to support petty cash claims;
  - (iii) annually or on ceasing to be entitled to hold a petty cash account, provide a statement of petty cash advanced.
3. No income shall be paid into a petty cash account but banked in accordance with Income Financial Regulations.

### **Travelling, Subsistence and Other Allowances**

1. The Director of Corporate Services has a responsibility to:
  - (i) determine arrangements for the proper submission and payment of certified travelling, subsistence and other allowances from officers and members;
  - (ii) inspect insurance policies and driving licences of all officers who use vehicles for official journeys;
  - (iii) determine and review the scale of petrol allowances payable for mileage claims.
2. Chief Officers and all managers have a responsibility to:
  - (i) submit detailed certified claims for payment of car allowances, subsistence



allowances, travelling and other expenses, generally on a monthly basis and always within three months of incurring the expense;

- (ii) maintain a list of officers and specimen signatures, to the Head of Business Improvement Services, who are authorised to sign such claims;
  - (iii) be satisfied that the journeys were authorised and appropriately planned, the expenses properly and necessarily incurred and that the allowances are properly payable;
  - (iv) ensure that officers comply with the Driving at Work Policy.
3. All personal claims submitted by a Chief Officer must be independently certified by another Chief Officer.
  4. All officers who use their private cars for official journeys must indemnify the Council against claims from third parties.

## **Property**

1. The Director of Growth and Place shall maintain a record of all properties owned by the Council, recording the purpose for which held, location, extent and plan reference, purchase details, details and nature of any interests, rents payable and details of tenancies granted. Disposals shall be clearly recorded and reference made of appropriate authority.
2. The Legal and Democratic Services Divisional Manager shall have custody of all title deeds under secure arrangements.
3. When marketing properties for disposal or to let the Director of Growth and Place will ensure that the premises are given adequate coverage in the marketplace and will undertake all marketing in accordance with best professional practice. When the appropriate method of disposal is by way of tenders, all tenders are to be returned in an envelope which does not bear the identity of the sender and are opened in the presence of the Director of Growth and Place, a Senior Solicitor and Chief Finance Officer (or their representatives).

## **Stocks and Stores**

1. The Chief Finance Officer has a responsibility to:
  - (i) make arrangements for maintaining the systems, recording, authorising receipts and issue of stores;
  - (ii) carry out a stores audit;
  - (iii) approve write off of amounts up to £3,000 for any one commodity. Amounts above this shall be reported to the Cabinet;
  - (iv) agree appropriate methods for disposal of surplus stock and equipment.
2. Senior Officers and all managers have a responsibility to:

- (i) ensure receipt, care, custody, issue and return of stocks and stores under his charge, including the determination of levels of stocks to be held;
- (ii) supply information for the financial and accounting records of stocks and stores;
- (iii) make arrangements for annual, independent checks of stocks including a certified statement of stock items for submission to the Chief Finance Officer;
- (iv) promptly report surpluses and deficiencies of stock to the Chief Finance Officer;
- (v) dispose of materials, stores or equipment, which are surplus to requirements, by competitive tender or public auction, unless in the opinion of the Chief Finance Officer the Council's interests would be better served by other means of disposal.

## **Inventories**

1. The Director of Corporate Services shall set up and maintain a comprehensive inventory of Council assets to include furniture, portable items of equipment, computer hardware and software, tools, vehicle, plant and machinery.
2. The Chief Finance Officer has a responsibility to:
  - (i) make arrangements for the routine audit of a comprehensive inventory;
  - (ii) be notified of any deficiencies;
  - (iii) determine write off of amounts up to £3,000 for any one commodity. Amounts above this shall be reported to the Cabinet.
3. Senior Officers and all managers have a responsibility to:
  - (i) where practicable, mark articles as Council property;
  - (ii) ensure articles are only used for Council purposes, unless they give authority otherwise;
  - (iii) carry out an annual stock check of all items;
  - (iv) provide an annual stock check certificate;
  - (v) notify the Chief Finance Officer of, and investigate, any deficiencies;
  - (vi) update inventories as and when changes occur.

## **Security**

1. Senior Officers and managers have a responsibility to:
  - (i) maintain proper security at all times for all buildings, stocks, stores, furniture, equipment and cash under his control;

- (ii) consult the Chief Finance Officer where security is thought to be defective or special security arrangements may be needed;
- (iii) maintain proper security and privacy of information held on computer files and for its use in accordance with Data Protection requirements and current regulation;
- (iv) maintain proper security of computer systems, office systems and control over the access to the Internet.

## **Members' Allowances**

1. The Legal & Democratic Services Divisional Manager will administer the Scheme of Members' Allowances including:-
  - (i) making arrangements for the publication of the total sum paid to each member;
  - (ii) payments to members will be made monthly by direct transfer into their bank account.

## **Glossary of Financial Terms**

### ***Actuals***

The term is often used as an abbreviation for actual expenditure or "out-turn". It refers to the amount spent against a budget in a particular period and is normally compared to an estimate. The difference between the actual expenditure and the budget is known as the "variance".

### ***Base Budget***

The cost of existing approved policies, before growth or reductions are included. The base budget is expressed at out-turn prices.

### ***Budget***

A statement of an authority's plans for net revenue or capital expenditure over a specified period of time. The annual budget is prepared as part of the Council's Annual Council tax setting process. The budget, once approved, is an instrument of delegation which is used to authorise, monitor and control expenditure (and income). Every Council must set a legal budget by the 11th March preceding the financial year.

### ***Budget Centre (or Cost Centre)***

A term which is interchangeable with cost centre. It is often related to a specific service provision, and enables costs and income to be separately identified to a discrete unit e.g. a vehicle, members' allowances, East Pallant House, etc. A cost centre could equally be a person or team with responsibility to control several budget centres e.g. legal services, pest control team.

### ***Budget Requirement***

This is the net revenue expenditure required by the Council in any one year. It is needed to calculate the level of council tax and by the government for capping purposes.

**Capital Expenditure**

This is expenditure that provides an asset which is capable of providing a benefit for more than one year e.g. the acquisition, construction and enhancement of buildings, land, vehicles and equipment etc. Rules and regulations govern the manner in which the Council can undertake capital expenditure e.g. borrowing controls. All expenditure is revenue expenditure unless it can be clearly demonstrated that it is 'expenditure for capital purposes'.

**Capital Financing**

The raising of money to pay for the Capital expenditure, for example, by borrowing, leasing, capital receipts, revenue or grants.

**Capital Receipts**

These are monies received from the sale of assets e.g. Council houses, surplus land. The Council is required, under current legislation, to "set aside" a proportion of the receipt to meet debt repayments.

**Capital Programme**

The capital schemes that the authority proposes to undertake over a set time; the Council has a 5 year programme.

**Cash Limited Budget**

This is a budget that is strictly limited by cash spending. Within the overall cash limit it is possible that individual committees can have freedom to spend as they wish (with virement rules) to meet their defined objectives.

The Council's revenue budgets have been set on a cash limited basis.

**Council Tax**

Council tax is a tax that is set by the billing authority, and is levied on all domestic dwellings, and 'main or sole residences'.

**Direct Service Organisation (DSO)**

An organisation within the Council, operating as a discrete trading activity, consisting of officers directly employed by the authority to carry out specified Council services under agreement.

**Estimate**

An approximate calculation of items of expenditure or income.

**Fees and Charges**

Fees and charges are levied on a wide range of services, from car parks to planning applications. Discretion in pricing policy is available in some areas, for example the Council is able to vary car park charges as an aid to traffic management. Income from fees and charges has a direct impact on the level of council tax. Financial regulations require that all scales of charges or other levels of income shall be regularly reviewed.

**General Fund**

The main revenue account of the Council. It summarises the cost of all services provided by the Council, except that it excludes the Housing revenue account.

**Historic Cost**

Amounts recorded at the cost they were incurred, not adjusted for the effect of subsequent price increases.

### ***Holding Account***

An account in which the costs of an activity are collected prior to their reallocation to the users of an activity e.g. a service budget centre.

### ***Internal Audit***

The Accounts and Audit regulations 2003 require all local authorities to maintain an adequate and effective internal audit service. Its responsibilities are to review the economy, efficiency and effectiveness of the services provided and include the detection and prevention of fraud.

### ***Net Expenditure***

The cost of providing a service after deduction of income.

### ***Out-turn***

The actual expenditure and income for a particular year. The term is often used when comparing actual expenditure against budgets.

### ***Overheads***

Expenses not directly allocated to a cost centre i.e. support costs.

### ***Price Base***

This is the basis on which costs are shown in a budget. Costs may be shown at current prices, or with an allowance for future price increases (called "out-turn" prices). The Council's budgets are compiled on the basis of "out-turn" costs i.e. the actual costs in cash terms.

### ***Provision***

A term, which represents money that is set aside to meet a future liability, but which cannot be accurately quantified at present e.g. a bad debt provision. Provisions are held separately from reserves and balances.

### ***Recharges (Internal)***

These are the costs of the charges levied for a service provided by one service with the Council to another.

### ***Reserves and Balances***

These are monies that are still held at the end of the year, after allowing for all the expenditure and income that has taken place. Some of this money may be earmarked for specific purposes e.g. the Council has transferred accumulated monies into a capital projects reserve.

### ***Revenue Expenditure***

This can be defined as expenditure on the day to day running of the authority e.g. wages and salaries, non-domestic rates, heating, lighting etc.

### ***Revised Estimates***

The approved estimates as amended for any supplementary estimates or virements. It is an update of the anticipated out-turn for the current year and is usually prepared in conjunction with the estimates for the following year.

**Section 151 Officer**

Section 151 of the Local Government Act 1972 states that “every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs”. The section 151 officer must be a member of one of the recognised chartered accountancy bodies (e.g. Cipfa).

In the event of serious financial problems e.g. unlawful activity of officers and/or members in authority affairs, or expenditure likely to exceed its resources in the financial year, the S151 officer (Chief Finance Officer) must report to the authority. A copy of the report must be sent to all members of the authority and to the authority’s external auditor.

**Supplementary Estimates**

An approved increase to a budget during the year, granted in accordance with the Council’s financial regulations (generally only in exceptional circumstances).

**Tax Base**

The council tax base is expressed in terms of its equivalent number of dwellings in valuation band D. This is used to set the tax rate of the authority and in the calculation of the Council’s entitlement to Revenue Support Grant (RSG).

**Virement**

This is the term used for switching resources between budget heads. Financial regulations determine the level at which (and amounts) virement can take place i.e. by budget holders, chief officers, and spending committees.

**Write-offs**

Where all debt recovery procedures have been exhausted, those debts which are not recoverable are written out of the accounts.

## Contract Standing Orders

1. Interpretation
2. Status of, and Compliance with, Contract Standing Orders
3. Approval to spend
4. Contract Value and Aggregation
5. Framework Agreements, Dynamic Purchasing Systems and Suitability of Contractors
6. Publication of Notices
7. Purchasing Procedures for Contracts of a Value less than £50,000
8. Tendering Procedures for Contracts of a Value of £50,000 or greater but less than relevant UK Threshold
9. Tendering Procedures for Contracts Above UK Thresholds
10. Receipt and Opening of Tenders
11. Evaluation of Tenders and Award of Contract
12. Waiver of Contract Standing Orders

### Contract Standing Order 1: Interpretation

1.1 In these Contract Standing Orders, the following terms have the following meanings:

“Advance Works Order” means an advance works order issued under CSO 11.10

“Area of Responsibility” means the function and area of responsibility for a Chief Officer as detailed in the District Council’s Constitution

“Chief Officer” means the Chief Executive or any Director

“Contract” means

(i) a binding agreement on fixed terms for the supply of goods, services, or the execution of works to or for the Council, including the use of consultants;

(ii) any Framework Agreement; or

(iii) any agreement where no payment is made by the District Council but which is of financial value to the Contractor (e.g. a catering concession) but does not include (without exception)

(iv) an employment contract: or

(v) a Grant Agreement

“Contract Administrator / Lead Officer” means a District Council officer responsible for the supervision and execution of the contract, and/or nominated to deal with Contracts in accordance with CSO 3.3. An officer defined as a project officer under the Council project management guidance will also be the Contract Administrator.

“Contractor” means the party or potential party to a Contract

“Contracts Finder” means a web-based portal provided for the purposes of the UK Regulations by or on behalf of the Cabinet Office

“CSO”/ “CSOs” means Contract Standing Order/ Contract Standing Orders

“District Council” means Chichester District Council

means an agreement between one or more contracting authorities (bodies governed by public law) and one or more Contractors “EU Public Procurement Directives

“Evaluation Report” means a report on the evaluation of tenders prepared under CSO 11

“Framework Agreement” means an agreement between one or more contracting authorities (bodies governed by public law) and one or more Contractors as defined in CSO 5.1

“Grant Agreement” means an agreement giving financial assistance to an individual

or organisation with no supply of goods or services, or execution of works, in return

“The Most Economically Advantageous Tender” (also known as MEAT) is a method of [assessment](#) that can be used as the selection procedure, allowing the Council as [contracting](#) party to award the [contract](#) based on aspects of the [tender submission](#) other than just [price](#) such as environmental or social benefit factors.

“Procurement Network” means a formal group of officers of the District Council representing all departments and procurement teams whose main purpose is to provide leadership on procurement matters for the District Council

“Senior Officer” means a District Council officer defined as a Senior Officer in the Current Constitution.

“UK e-Notification Service” means a single web-based portal provided for the purposes of the UK Regulations by or on behalf of the Cabinet Office.

“UK Regulations” means the Public Contracts Regulations 2015 as may be amended from time to time by statutory instrument.

“UK Thresholds” means the thresholds for public advertisement of goods, works and service contracts as provided for in the UK Regulations.

“Works”, “Supplies” & “Services” are as defined in the EU Public Procurement Directives or relevant UK legislation.



## **Contract Standing Order 2: Status of, and Compliance with, Contract Standing Orders**

- 2.1 By law, the District Council is required to make standing orders with respect to contracts for the supply of goods or services or for the execution of works which provide for securing competition and regulation of the manner in which tenders are invited.
- 2.2 The District Council is a contracting authority for the purposes of the UK Regulations and is thereby legally bound to comply with certain practices and procedures in the award of Contracts.
- 2.3 The District Council has therefore adopted these Contract Standing Orders (CSOs), setting out the procedures that must be followed in relation to the procurement and award of a Contract. CSOs provide a framework to ensure that the District Council uses its resources efficiently in making purchasing decisions to obtain best value in public services. CSOs also provide a means of safeguarding the reputation of the District Council and its staff from any implication of dishonesty or corruption.
- 2.4 The statutory S.151 Officer and the Monitoring Officer are the joint custodians of these CSOs and are responsible for keeping them under review. This includes giving advice on their implementation and interpretation.
- 2.5 Every Contract made by the District Council or on its behalf (irrespective of the source of funding) shall comply with the UK Regulations, CSOs and Financial Regulations. In the event that there is any conflict or inconsistency between the provisions of CSOs and any legal requirement, the legal requirement shall apply.
- 2.6 The UK Regulations, including non-discrimination, equal treatment, transparency and proportionality, apply generally in the award of public contracts – including those of a value below the UK Thresholds. Care must be taken at all times to ensure that nothing is done which is discriminatory, improper or which distorts competition.
- 2.7 It is the role of the Divisional Manager for Democratic Services to manage procurement support and to maintain a Procurement Network on behalf of the District Council.
- 2.8 These CSOs supplement the Officers' Code of Conduct and a failure to comply will normally be regarded as a disciplinary offence. Where a person who is not a District Council employee is contracted to a position where they are authorised to carry out purchasing functions, it is a condition of their contract that they comply with CSOs.
- 2.9 These CSOs shall always be interpreted and applied in a way that supports the achievement of the District Council's identified business objectives, within relevant legal frameworks.
- 2.10 Any contracts procured and awarded by way of collaboration with other public bodies where a competitive process has been followed that complies with the equivalent of these CSOs of the leading organisation will be deemed to comply with these CSOs and no waiver in accordance with CSO 12 will be required.
- 2.11 These standing orders do not cover contracts to buy or sell land or any interest

in land (e.g. lease or right of way). Where the sale of land and property (or an interest therein) is involved, the tendering procedures used must ensure transparency, fair competition and achievement of the best consideration in the circumstances and to recognise the District Council's corporate objectives.

### **Contract Standing Order 3: Approval to spend**

- 3.1 The procurement of a Contract (not including a Framework Agreement) is subject to the approval of the relevant decision maker who has the authority to give approval for the relevant expenditure under the Constitution. The giving of approval is subject to the expenditure involved having been included in approved estimates and sufficient budgetary provision having been made in the District Council's capital programme or revenue budget, or has been approved via a separate report to cabinet and (depending on value) Council.
- 3.2 In estimating the value of the Contract, the principles of CSO 4 shall be applied
- 3.3 In all cases, the Chief Officer within whose Area of Responsibility the Contract falls shall designate a Senior Officer as Contract Administrator / Lead Officer for the Contract. It shall be the responsibility of the Contract Lead Officer to ensure that the processes followed in relation to the procurement and award of the Contract are compliant with these CSOs.
- 3.4 For spend over £10,000 the Procurement Officer is to be informed and over £50,000 the Procurement Officer is to be consulted in advance of the procurement being undertaken.
- 3.5 In the event that the value of the contract represents more than 25% of the company's annual turnover, the Chief Officer or Divisional Manager and the Chief Finance Officer must be advised and a further assessment undertaken to their satisfaction.
- 3.6 The Procurement Officer shall be responsible for management of any Frameworks created by the Chichester District Council.

## **Contract Standing Order 4: Contract Value and Aggregation**

- 4.1 The estimated value of a Contract shall be the total value of the Contract net of VAT. This is the total consideration estimated to be payable over the full term of the Contract by the District Council to the Contractor which shall include any option to extend the term under the contract. Where the Contract is one where no payment is made by the Council (e.g. a concession) a best estimate of the financial value to the Contractor shall be ascertained.
- 4.2 Where the Contract period is indefinite or uncertain, the estimated value shall be calculated on the basis that the Contract will be for a period of four years.
- 4.3 The estimated value of a Framework Agreement or Dynamic Purchasing System (DPS) is the total value of all the Contracts which have been identified as potentially to be entered into by the District Council, further to that Framework Agreement or DPS. The Procurement Officer shall keep all Framework agreements under review and advise relevant officers as to those Framework agreements.
- 4.4 Purchases of the same or similar goods or services must be aggregated wherever practicable. Contracts must not be artificially separated so as to circumvent the application of any part of CSOs or UK Regulations.
- 4.5 Contracts which are each of a value below the relevant UK Threshold may nevertheless be subject to the full UK Regulations tendering requirements, where they constitute a series of related or repeat purchases. Advice should be sought where this is the case, in order that the relevant procurement route can be adopted.

## **Contract Standing Order 5: Framework Agreements, Dynamic Purchasing Systems and Suitability of Contractors**

- 5.1 A Framework Agreement is an agreement between one or more contracting authorities (bodies governed by public law) and one or more Contractors, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. Framework Agreements may be established by the District Council, by other public bodies, by public sector buying consortia or via the “Constructionline” service (originally introduced by the Department for Transport, Local Government and Regions) as arrangements through which the District Council, along with other public bodies, may make specific purchases.
- 5.2 Where appropriate a Framework Agreement that has been approved as suitable by the Director Corporate Services should be used for the making of the proposed purchase. The Procurement Officer shall advise the Director of Corporate Services as to whether a particular Framework Agreement shall be appropriate for the specific requirement and procured in compliance with the UK Regulations, and ensure that the terms and conditions applicable shall meet the minimum requirements of the District Council.
- 5.3 Provisions contained in the UK Regulations which govern Framework Agreements must be complied with when concluding a Framework Agreement or awarding a contract based on a Framework Agreement.
- 5.4 A Dynamic Purchasing Systems (or DPS) is a procedure available for contracts for works, services and goods commonly available on the market. It has some aspects that are similar to an electronic Framework Agreement but where new suppliers can join at any time.
- 5.5 A DPS has its own specific set of requirements. It must be run as a completely electronic process and should be set up using the restricted procedure and other conditions as set out in Regulation 34 of the Public Contract Regulations 2015.
- 5.6 In the initial setup stage, all suppliers who meet the selection criteria and are not excluded must be admitted to the DPS. The District Council must not impose any limit on the number of suppliers who may join a DPS. Individual contracts are awarded during the second stage, in which the District Council invites all suppliers on the DPS (or relevant category/lot) to bid for the specific contract.
- 5.7 In all cases where a Contract is awarded under these CSOs, a Contractor can only be appointed who, as a minimum:
- a) meets the District Council’s insurance requirements for the Contract (in respect of public liability, product, professional indemnity and/or employer’s liability as appropriate, based on an assessment of risk for the Contract)
  - b) is registered for tax and holds a valid certificate (where appropriate)

## **Contract Standing Order 6: Publication of Notices**

- 6.1 In all cases where, by virtue of these CSOs or by UK Regulations, a public notice is required, it shall be placed on the South East Shared Services In-tend Portal, on the District Council's website and/or on Contracts Finder.
- 6.2 Where the estimated total value of a proposed Contract is £50,000 or above, the notice may additionally be placed in at least one relevant local publication and/or journal circulating among Contractors who undertake Contracts of that nature.
- 6.3 Where the value of the contract is £25,000 or greater the information regarding the Contract notice is required to be placed on Contracts Finder.
- 6.4 Where the value of the Contract exceeds the relevant UK Threshold, the Contract notice and Contract award notice shall also be placed on the UK e-Notification Service in accordance with the UK Regulations.

## **Contract Standing Order 7: Purchasing Procedures for Contracts of a Value less than £50,000**

- 7.1 Where the estimated value of the Contract, calculated in accordance with CSO 4, is greater than £10,000 and less than £50,000 and there is a suitable Framework Agreement already approved by the Director of Corporate Services under CSO 5.2, that Framework Agreement shall be used.
- 7.2 Where no previously approved Framework Agreement is available, and/or where the estimated value of the Contract, calculated in accordance with CSO 4, is less than £50,000, then two written quotations should be obtained, one of which should normally be from a local\* contractor if possible.
- If the minimum number of contractors/suppliers cannot be invited to tender, the Contract Administrator / Lead Officer shall seek the approval of the Director Corporate Services (or his appointed representative) to proceed with invitations to tender to fewer organisations.
- 7.4 Contractors wishing to be considered for tenders should be registered with the Contractors Health and Safety Assessment Scheme (CHAS) or equivalent and be prepared to provide membership and/or reference details. Where a contractor is not registered with CHAS the CDC Health and Safety Manager should provide advice, support and guidance to ensure that the contractor submits sufficient documentation to comply with Health and Safety legislation.
- 7.5 In the selection of the Contractor, the Contract Lead Officer shall bear in mind the need to seek best value for money and be able to demonstrate that they have achieved this.
- 7.6 The Contract shall be evidenced in writing, by submission of an order in accordance with the Framework Agreement or, where a Framework Agreement is not used, by the placing of an order on the basis that the price in the written quotation received shall apply.

\* "local" is defined as meaning that the main place of business of the contractor is located in Chichester District or the adjoining Districts on its boundaries.

## **Contract Standing Order 8: Tendering Procedures for Contracts of a Value of £50,000 or greater but less than relevant UK Threshold**

- 8.1 Where the estimated value of the Contract, calculated in accordance with CSO 4, is £50,000 or greater but less than the relevant UK Threshold, and there is a suitable Framework Agreement approved by the Director of Corporate Services, under CSO 5.2, the Procurement Officer shall advise as to whether a suitable Framework Agreement is available.
- 8.2 One of the following methodologies should be used:
- A Framework Agreement
  - A DPS
  - An Open Competitive Procedure;
  - at least four written quotations against a written request for quotation under the Restricted Competitive Procedure;
  - “Constructionline” as detailed under CSO 5.1.
- 8.3 The procedure requires the publication of a notice in accordance with CSO 6. The public notice shall specify (i) a time period within which interested parties may express an interest in tendering and (ii) the method by which such interest shall be expressed. At the end of this period, an invitation to tender shall be sent to all parties who have expressed an interest, specifying a reasonable period for tenders to be returned.
- 8.4 In all cases, every invitation to tender shall include the following:
- A statement that the tendering process will be conducted within the District Council’s corporate electronic tendering system or a tendering system approved in writing for that purpose by the Monitoring Officer;
  - Full instructions on how to submit their tender to this system;
  - Advice that tenders, once received in the system, will be anonymous until the time specified for their opening;
  - Advice as to the deadline for submission of tenders to this system
- 8.5 In exceptional circumstances, and with the prior approval of Director of Corporate Services, an invitation to tender maybe sent to tenderers in hard copy paper form, rather than through the electronic tendering system. For such cases the Procurement Officer shall be responsible for oversight of the tender and evaluation process from receipt of tender paperwork to the evaluation process.
- 8.6 The invitation to tender shall state the evaluation criteria, including subcriteria and sub-sub-criteria (where used), weightings and scoring criteria that will be applied in the award of the Contract. These criteria must be capable of objective assessment, include price and any other relevant factors, and be weighted by relative importance. The invitation to tender shall also include the terms and conditions that will apply to the Contract.
- 8.7 Contractors wishing to be considered for tenders should be registered with the Contractors Health and Safety Assessment Scheme (CHAS) or equivalent and be prepared to provide membership and/or reference details. Where a contractor is not registered with CHAS the CDC Corporate Health and Safety Manager should provide advice, support and guidance to ensure that the contractor submits sufficient documentation to comply with Health and Safety legislation.



a design/scope/procurement of a project should automatically be excluded from bidding for that project, unless there are exceptional circumstances, in which case specific Cabinet approval will be required.

- 8.9 Contracts arising from the tender exercise(s) shall be evidenced in writing by the completion of a formal written Contract, the terms of which have been approved by the Monitoring Officer or other person authorised by him for this purpose.
- 8.10 All officers involved in tendering shall comply with the officer handbook, relevant policies and statutory legal duties in particular the duties of transparency. Individual Councillors shall not be involved with the tendering process and groups of Councillors given delegated responsibilities as to tendering such as being involved in evaluation processes shall comply with the Code of Conduct and the principles of good decision making set out in the Constitution of the District Council.

## **Contract Standing Order 9: Tendering Procedures for Contracts above UK Thresholds**

- 9.1 The UK Regulations set a financial threshold beyond which prescribed tendering procedures must be followed. The UK Thresholds are reviewed every two years, and the updated figures can be found on line.
- 9.2 Where the estimated value of the Contract is in excess of the relevant UK Threshold, the procedures set out in the UK Legislation must be followed. In most cases, the open procedure, restricted procedure or competitive procedure with negotiation will be used, but in certain specialist cases, the negotiated procedure without prior publication, competitive dialogue procedure or innovation partnership procedure shall apply. Advice on which procedure is appropriate to the specific case should be sought from the Monitoring Officer.
- 9.3 Where the estimated value of the contract is £50,000 or greater but less than UK Threshold approval of the Section 151 officer or the Monitoring Officer shall be sought to the use of the negotiated procedure without prior publication, competitive dialogue procedure or innovation partnership procedure.
- 9.5 Any proposed modifications to existing contracts which have not been provided for in the initial procurement documents in clear, precise and unequivocal review clauses shall be approved by the Monitoring Officer where the value of the modification is less than £1 million and by the Executive where the value of the modification is £1 million or greater prior to agreement of such modification.

## **Contract Standing Order 10: Receipt and Opening of Tenders**

- 10.1 Subject to CSO 10.2 – 10.3, all electronic tenders shall be opened at the same time, by an officer appropriately trained to open tenders on the electronic tendering system as soon as reasonably practicable on or after the date for return of tenders. People under contract to the District Council, but not permanent employees of the District Council shall not open tenders unless approved by a Chief Officer or the Monitoring Officer.
- 10.2 For a Contract of a value of £50,000 or greater, the officer opening tenders shall be certified as having completed the required training and the officer's name shall appear on a list held by the Monitoring Officer and authorised for that purpose.
- 10.3 The officer opening tenders shall record, in respect of each tender opened, the name of the tenderer and, where applicable, the total value.
- 10.4 Electronic tenders shall be used for all tendering except that for contracts under £10,000 where use of hard copy tendering has been agreed with the Procurement Officer in advance. Such contracts shall be overseen by a Divisional Manager.

## **Contract Standing Order 11: Evaluation of Tenders and Award of Contract**

- 11.1 The Contract Administrator / Lead Officer (who should normally be an employee of the District Council) shall ensure that the tenders received are evaluated in accordance with the evaluation criteria that have been adopted for the Contract and stated in the invitation to tender. These criteria must be capable of objective assessment, include price and other relevant factors, and be weighted by relative importance.
- 11.2 The Contract Administrator / Lead Officer shall produce a written report evaluating each tender received against the evaluation criteria. The report shall identify the tenderer who has submitted the most economically advantageous tender i.e. the tender that achieves the best score in the evaluation and recommend the award of the Contract to that tenderer. This report shall be submitted to the person authorised to award the Contract under CSO 11.4.
- 11.3 No contract may be awarded unless the expenditure involved has been included in approved estimates and sufficient budgetary provision made in the District Council's capital or revenue accounts in accordance with CSO 3.1. The Evaluation Report shall confirm how this requirement is met.
- 11.4 Each Chief Officer, or the Monitoring Officer are authorised to award and sign any contract entered into on the District Council's behalf, and where the value of the Contract is less than the UK threshold. Such Contracts may be awarded and signed by any Senior Officer or the Monitoring Officer. All other Contracts at or higher than the UK threshold shall be awarded by the Executive.
- 11.5 Where the value of a Contract is above the relevant UK Threshold, the Contract shall be awarded in accordance with the UK Regulations and in particular the requirements relating to a "standstill" period prior to the Contract being entered into.
- 11.6 All Contracts, including an arrangement subject to a purchase order, must be made in writing under English Law, and must clearly and carefully specify the supplies, services or works to be provided, the agreed programme for delivery and the price and terms for payment together with all other terms and conditions.
- 11.7 Where purchases of a value less than £50,000 are made for which standard terms and conditions have been approved by the Monitoring Officer those standard terms should be used. Where a Contract is estimated at a value £50,000 or above or is of an unusual or complex nature, the Monitoring Officer shall be consulted to produce a suitable set of conditions of contract or to advise on existing conditions for use under a Framework Agreement
- 11.8 Every contract must also include certain clauses, in a form approved by the Monitoring Officer, to protect the District Council from fraud and to ensure that Contractors understand their responsibilities when they are acting on the District Council's behalf as well as clauses required to comply with the UK Regulations.
- 11.9 The Chief Officer within whose area of responsibility the Contract falls shall allocate to a Senior Officer responsibility for the ongoing management of the Contract.
- 11.10 In exceptional circumstances, where a Contract has been awarded under CSO

11.4, but it is considered necessary in the best interests of the District Council to initiate the provision of goods or services under that Contract prior to the Contract being signed, the issue of an Advance Works Order by the Monitoring Officer may be requested. Issue will be subject to confirmation that a decision to award the Contract has been made in accordance with CSOs, the necessary funding for the Contract having been approved, and the value of the Advance Works Order not exceeding £50,000.

- 11.11 Contracts with a value from £50,001 up to £175,000 in value can be awarded by a Senior Officer in consultation with the Chief Finance Officer. Contracts with a value in excess of £175,000 shall be awarded by the Cabinet.

## **Contract Standing Order 12: Waiver of Contract Standing Orders**

Any of the requirements of these CSOs may be waived in an individual case, by the person authorised as follows:

- Where the estimated value of the Contract is less than £10,000, the Chief Officer/Divisional Manager or senior officers so authorised by a Divisional Manager within whose Area of Responsibility the Contract falls;
- Where the estimated value of the Contract is between £10,000 and £50,000, the Chief Officer/Divisional Manager within whose Area of Responsibility the Contract falls and the Chief Finance Officer;
- Where the estimated value of the Contract is £50,000 or greater but less than the UK threshold the Section 151 Officer and the Monitoring Officer, before authorisation not to obtain tenders is sought from the relevant portfolio holder in consultation with the relevant Senior Officer prior to the award of the contract; Where the Section 151 Officer is the relevant Senior Officer then the portfolio holder shall consult with the Chief Executive;
- Where the estimated value of the Contract is above the UK threshold, the Executive or, in respect of Non-Executive matters, the Committee with delegated responsibility for the relevant service area.

Where works are required urgently by Senior Officers or the Divisional Manager for CCS they may award a contract and report that award and explain the urgency which led to the award to the next meeting of Cabinet.

12.2 A request for the issue of a waiver must be made in writing to the person authorised under CSO 12.1, with full reasons as to why the waiver is required, and evidence that the issue of a waiver will not prevent best value from being obtained. The decision in response to the request must also be in writing. No action shall be taken to enter into the Contract until such request has been submitted and the decision made.

12.3 The District Council is subject to legal requirements to ensure fair competition for Contracts of a value exceeding the UK Thresholds, and subject to obligations under the UK Regulations to ensure that all Contracts (regardless of value) are awarded having regard to the need to avoid any action that is discriminatory, improper or which distorts competition.

12.4 It is understood that a waiver may be utilised where it can be demonstrated that the ability to act quickly to engage a single supplier would make economic sense and fit with service requirements, in circumstances where there is no more effective way to secure the capacity.

## **PART 5 - CODES AND PROTOCOLS**

### **5.1 Members' Code of Conduct**

Approved by the Chichester District Council at its meeting on 9 October 2012

#### **Part 1 – Introduction and Interpretation**

This Code applies to you as a member of Chichester District Council when you act in your role as a member. It is your responsibility to comply with the provisions of this Code.

As a member you are a representative of this authority and the public will view you as such. Therefore, your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority.

You should read this Code together with the general principles of public life on which it is based and which are set out in the Appendix.

In this Code-

**'meeting'** means any meeting of:

- (a) the authority
- (b) the Executive of the authority (The Cabinet)
- (c) any of the authority's or its executive's committees, sub-committees, panels and forums, joint 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'** includes a co-opted member (voting and non-voting) and an appointed member (Appointed members apply to parish councils only)

If you need guidance on any aspect of this Code you should seek it from the Monitoring Officer or Deputy Monitoring Officer.

#### **Part 2 – Scope and General Obligations**

##### **1. Scope**

- (1) This Code applies to all members of Chichester District Council, including co-opted voting members
- (2) You must comply with this Code whenever you:
  - a. conduct the business of your authority or
  - b. act, claim to act or give the impression you are acting as a representative of your authority or in your official capacity as a member of the authority
- (3) Where you act as a representative of your authority-
  - a. on another authority, you must, when acting for that other authority, comply with that other authority's Code of conduct: or;

- b. on any other body, you must, when acting for that other body, comply with your authority's Code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## 2. General Obligations

- (1) When acting in your role as a member of the authority –
  - a. **do not** conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
  - b. **do not** use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
  - c. **do** treat others with respect;
  - d. **do not** bully any person;
  - e. **do not** intimidate or attempt to intimidate any person who is or is likely to be a complainant or a witness, or involved in any investigation or proceedings about a complaint that a member (including yourself) has failed to comply with his or her authority's code of conduct;
  - f. **do not** do anything which may cause the authority to breach any of the equality duties (as set out in the Equality Act 2010);
  - g. **do not** do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority;
  - h. **do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless:
    - i. you have the consent of a person authorised to give that consent;
    - ii. you are required by law to do so;
    - iii. the disclosure is made for the purpose of obtaining professional legal advice and the recipient agrees not to disclose the information to any other person; or
    - iv. the disclosure is-
      - (aa) reasonable and in the public interest; and
      - (bb) made in good faith and in compliance with the reasonable requirements of the authority; and
      - (cc) you have consulted the Chief Executive, the Monitoring Officer or the District Treasurer prior to its release.
  - i. **do not** prevent another person from gaining access to information to which that person is entitled by law;
- (2) When using or authorising the use by others of the resources of the authority -
  - a. **do** act in accordance with the authority's reasonable requirements including the requirements of the authority's Information Security Policy;
  - b. **do** make sure that such resources are not used improperly for political purposes (including party political purposes); and
  - c. **do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (3) When reaching decisions on any matter –
  - a. **do** have regard to any relevant advice provided to you by the authority's Chief Finance Officer or the authority's Monitoring Officer, where that officer is acting pursuant to his or her statutory duties; and
  - b. **do** give reasons for all decisions in accordance with any statutory



requirements and any reasonable additional requirements imposed by the authority.

### **Part 3 – Disclosable Pecuniary Interests (Localism Act 2011)**

#### **3. Notification of disclosable pecuniary interests**

- (1) Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.
- (2) A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the description at sub-paragraph (3) below. Any interest which your partner may have is only treated as your interest if you are aware that your partner has the interest.
- (3)
  - a. any employment, office, trade, profession or vocation carried on for profit or gain;
  - b. any payment or provision of any other financial benefit (other than from the authority) made or provided within the preceding 12 months in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a);
  - c. any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest) and the authority under which goods or services are to be provided or works are to be executed and which has not been fully discharged.
  - d. any beneficial interest in land which is within the area of the authority;
  - e. any licence (alone or jointly with others) to occupy land in the area of the authority for a month or longer;
  - f. any tenancy where (to your knowledge) the landlord is the authority and the tenant is a body in which you or your partner has a beneficial interest;
  - g. any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant authority; and 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 you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*(certain words and expressions used in this list are defined in Regulations)*

- (4) You must, within 28 days of becoming aware of any new interest or change to any interest registered under sub-paragraph (1) notify the Monitoring Officer of the details of that new interest or change.

#### **4. Register of interests**

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

#### **5. Sensitive interests**

- (1) Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.
- (2) You must, within 28 days of becoming aware of circumstances which mean that information excluded under paragraph (1) is no longer sensitive, notify the Monitoring Officer so that the information is included in your authority's register of members' interests.

#### **6. Non participation in case of disclosable pecuniary interest**

- (1) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting-
  - a. you must disclose the interest to the meeting.
  - b. you may not participate in any discussion of the matter at the meeting, unless you have received a dispensation from the Monitoring Officer.
  - c. you may not participate in any vote taken on the matter at the meeting, unless you have received a dispensation from the Monitoring Officer.
  - d. you must leave the room whilst the business is discussed, unless the public have the right to attend, in which case you should move to the public seating area. You may then make representations, answer questions or give evidence relating to the business, provided the public are also allowed to attend the meeting for the same purpose, and you have a dispensation from the Monitoring Officer enabling you to do so.
  - e. if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

- (2) Where, as an executive member, you may discharge a function alone, and you become aware of a disclosable pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## **7. Offences**

- (1) It is a criminal offence to-
- a. fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election;
  - b. fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
  - c. fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting;
  - d. participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest, unless you have received a dispensation from the Monitoring Officer;
  - e. fail to notify the Monitoring Officer within 28 days of the interest, if you are an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter;
  - f. knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting;
- (2) The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

## **Part 4 – Other Interests (Personal and Prejudicial)**

### **8. Notification of other interests**

- (1) In addition to the disclosable pecuniary interests notifiable under the Localism Act 2011, you must, within 28 days of—
- a. this Code being adopted by or applied to your authority (or within the preceding four months); or
  - b. your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.
- (2) You have a personal interest in any business of your authority where it relates to or is likely to affect—
- a. 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;
  - b. any body of which you are a member or in a position of general control or management —
    - i. exercising functions of a public nature;
    - ii. directed to charitable purposes; or
    - iii. one of whose principal purposes includes the influence of public opinion

- or policy (including any political party or trade union);
  - c the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
- (3) You must, within 28 days of becoming aware of any new interest or change to any interest registered under sub-paragraph (1) notify the Monitoring Officer of the details of that new interest or change.

## **9. Disclosure of other interests**

- (1) Subject to sub-paragraphs (2) to (5) below, where you have a personal interest described in paragraph 8 above or in paragraph (2) below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the relevant time at the meeting, at the commencement of that consideration, or when the interest becomes apparent.
- (2) (A) You have a personal interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your 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 your ward affected by the decision;
- (B) In sub-paragraph (2) (A), a relevant person is—
- a.
    - i. your spouse or civil partner,
    - ii. living with you as husband and wife or as if you are civil partners,
    - iii. your grandparent,
    - iv. a lineal descendant of your grandparent,
    - v. a parent, sibling or child of a person within paragraph (i) or (ii),
    - vi. the spouse or civil partner of a person within paragraph (iii), (iv) or (v), or
    - vii. living with a person within paragraph (iii), (iv) or (v) as husband and wife or as if they are civil partners.
  - b. any person with whom you have a close association;
  - c. 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;
  - d. 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
  - e. any body of a type described in paragraph 8(2) (a) or (b).
- (3) Where you have a personal interest in any business of your authority which relates to or is likely to affect a body described in paragraph 8(2) (a) or (b),

you need only disclose to the meeting the existence and nature of that interest if you address the meeting on that business.

- (4) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(2) (c), you need not disclose that interest if it was registered more than three years before the date of the meeting.
- (5) Where you have a personal interest but, by virtue of paragraph 11, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

## **10. Register of interests**

Any interests notified to the Monitoring Officer, under paragraph 8 above, will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

## **11. Sensitive interests**

- (1) Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.
- (2) You must, within 28 days of becoming aware of circumstances which mean that information excluded under paragraph (1) is no longer sensitive, notify the Monitoring Officer so that the information is included in your authority's register of members' interests.

## **12. Non participation in case of prejudicial interest**

- (1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business 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 your judgement of the public interest and where that business—
  - a. affects your financial position or the financial position of a person or body described in paragraph 9 (2) (B); or
  - b. relates to the determining, amendment, modification, variation, or revocation of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 9 (2)(B),

or of any condition, limitation or term to which it is subject.

- (2) You do not have a prejudicial interest in any business of the authority where that business relates to the functions of your authority in respect of—
  - a. housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - b. schools, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - c. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - d. an allowance, payment or indemnity given to members;
  - e. any ceremonial honour given to members; and
  - f. setting council tax or a precept under the Local Government Finance Act 1992.
- (3) Subject to sub-paragraph (4) below, where you have a prejudicial interest in any business of your authority—
  - a. you must disclose the interest to the meeting.
  - b. except as in d. below, you may not participate in any discussion of the matter at the meeting, unless you have received a dispensation from the Monitoring Officer or the interest is of the type mentioned in paragraph 8(2)(a).
  - c. you may not participate in any vote taken on the matter at the meeting, unless you have received a dispensation from the Monitoring Officer.
  - d. you must leave the room whilst the business is discussed, unless the public have the right to attend, in which case you should move to the public seating area. You may then make representations, answer questions or give evidence relating to the business, provided the public are also allowed to attend the meeting for the same purpose.
  - e. you must not seek improperly to influence a decision about that business.
- (4) Where the interest is of the type mentioned in paragraph 8(2) (a), you may participate in the discussion, but may not vote in relation to the matter unless you have obtained a dispensation from the Monitoring Officer.
- (5) Where, as an executive member, you may discharge a function alone, and you become aware of a prejudicial interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

### **13. Interests arising in relation to overview and scrutiny committees**

You also have a prejudicial interest in any business before an overview and scrutiny committee of the authority (or of a sub-committee of such a committee) where—

- a. that business relates to a decision made (whether implemented or not) or action taken by the executive or another of the authority's committees, sub-committees, joint committees or joint sub-committees; and

- b. at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

In such case you may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and, unless the public have the right to attend, you must leave the room where the meeting is held immediately after answering questions or giving evidence. You must not seek improperly to influence a decision about that business.

#### **14. Pre-determination or bias**

- (1) Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as member. However, do not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties. You must retain the ability to consider the matter with an open mind and to give proper consideration to all the facts and information relevant to the decision.
- (2) When making a decision, do consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

#### **15. Compliance with Constitution**

Failure to comply with the requirements of the Council's Constitution shall be deemed to be a breach of this Code.

## **Appendix 1 to Members' Code of Conduct - The General Principles of Public Life**

### **Selflessness**

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

### **Integrity**

2. Members should not place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

### **Objectivity**

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

### **Accountability**

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

### **Openness**

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

### **Honesty**

6. Members should not place themselves in situations where their honesty may be questioned, should not behave dishonestly and should on all occasions avoid the appearance of such behaviour.

### **Leadership**

7. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.



## Appendix 2 to Members' Code of Conduct

### Guidance to members on the offer, acceptance and declaration of receipts of gifts and hospitality

#### Introduction

This guidance sets out members' obligations to declare gifts and hospitality received in their *official capacity as members of the Council*. Failure to comply with these rules is a breach of the Members' Code of Conduct.

Breaches of the Code render members liable to a complaint being reported to the Monitoring Officer who can decide whether there should be an investigation into the allegation.

The press and public have the right to inspect your gift and hospitality declarations which is published online in your Declarations of Interest forms via the Council's web site at <http://chichester.moderngov.co.uk/>.

#### What are the rules?

You must register *every* individual gift or item of hospitality received that is over £50 in value.

Your registration must be made *within 28 days of the date you received it*, by updating your Register of Interests form on the Council's modern.gov intranet site.

You must declare the *value* and details of the gift or hospitality received.

Even if all members, or a large number of them, received the same gift or were invited to the same event, they must each make *individual* notifications.

#### Should I accept gifts and hospitality?

Your 'official capacity as a member of the Council' is when you undertake one of the following:

- You conduct the business of your authority, or
- You act, claim to act or give the impression you are acting as a representative of your authority or in your official capacity as a member of the authority

In considering whether to accept gifts or hospitality Members should have regard to the following general principles:

- Never accept a gift or hospitality as an inducement or reward for anything which you do as a Member
- Never accept a gift or hospitality which might be open to misinterpretation
- Never accept a gift or hospitality which puts you under an improper obligation, and
- Never solicit a gift or hospitality

Registering gifts or hospitality received under the Code does not automatically mean it is appropriate or sensible to accept them in the first place.

Particular care should be taken in relation to gifts and hospitality offered by current or potential contractors for the Council, or from applicants for grant funding, or developers with planning applications pending. In certain cases the acceptance of a gift or hospitality from these sources could constitute a criminal offence, even if declared. If there is any suspicion that any offer is intended as an inducement then the gift should be politely declined.

Only use the declaration form for things received in your capacity as a Chichester District councillor. If you receive things in another capacity, e.g. arising from holding another public office, register in accordance with whatever code is in place for that other body. If a particular body does not actually require you to register anything (e.g. a community association), then you do not need to do anything in respect of the receipt of a gift or hospitality directly attributed to your role within that organisation.

However, you should always consider whether any gifts or hospitality could be seen as being connected with your public role as a Member. If in doubt, declare it.

### **What is the value of the gift or hospitality?**

You may have to estimate how much a gift or hospitality is worth. The form requires you to give an estimate of the value. It is suggested that you take a common sense approach, and consider how much you reasonably think it would cost a member of the public to buy the gift, or provide the hospitality in question. If as a result you estimate that the value is greater than £50, then you should declare receipt.

Where hospitality is concerned, you can disregard catering on-costs and other overheads, e.g. officers and room hire. If the sandwiches or your meal, including drinks and alcohol, would cost £50 in a comparable establishment providing food of comparable quality, register it.

If you are not certain whether the value is under £50, the safest course is to register it and give an approximate value.

### **What about gifts of low value?**

There is no requirement to declare gifts of a value of less than £50. However, in order to be transparent, if you receive a series of related gifts in connection with your role as a Member which are all under £50, but together total above £50, then you should register them if they are from the same person.

If the small gifts received from different persons are connected in some way, it is *good practice* to register them. If the hospitality can be related to a Council decision in the foreseeable future, even if it is under £50, it should be politely declined.

### **Gifts which are more likely to be considered acceptable:**

In appropriate circumstances members may choose to accept gifts and hospitality in the following circumstances:

- Civic hospitality provided by another authority
- modest refreshments received in the ordinary course of duties as a member e.g. at formal meetings or when in contact with constituents
- Tickets for sporting, cultural events which are sponsored or supported by the Council

- Small gifts of low intrinsic value i.e. below £50 which are branded with the name of the company or organisation making the gift (e.g. diaries, calendars etc.)
- Modest souvenir gifts with a value below £50 from another public body given on the occasion of a visit by or to that body
- Hospitality received in the course of an external visit or meeting which has been authorised by the Council. In such cases the arrangements should be made by officers rather than the members who will be benefiting and hospitality should be commensurate with the nature of the visit, and
- Other unsolicited gifts where it is impracticable to return them or where refusal would in the circumstances cause offence

Receipt of gifts and hospitality of this type is still subject to the requirements of the Code regarding the notification of gifts and hospitality of greater than £50 in value. The appropriateness of acceptance should always be considered beforehand. It should also be noted that the mere fact that a gift or hospitality does not have to be notified does not necessarily mean that it is appropriate to accept it.

### **Guidance on particular gifts and hospitality**

Tickets to events - the evidence of the register indicates that the most common benefits accepted by Chichester District Councillors from time to time, are tickets to functions, notably theatrical performances in the district and Goodwood events. If a Member considers it appropriate to accept such tickets, then the value must be assessed and if greater than £50 they should be declared as gifts.

Civic Ceremonial - Should any personal gift be offered in such circumstances the approach to be adopted in relation to acceptance must be considered in accordance with this guidance.

### **What happens if I do not register a gift or hospitality?**

Failure to declare receipt of a gift or hospitality over £50 is a breach of a Members' Code of Conduct. An alleged breach of the Code can be the subject of a complaint to the Monitoring Officer which could result in the matter becoming the subject of a formal investigation.

### **How do I register gifts and hospitality I receive?**

The best advice is to get into the habit of registering things as soon as possible.

You should log on to the modern.gov intranet page

<http://chichesterintranet.moderngov.co.uk/> and access the Work To Do link on the left hand side, click on the Options Tab and then select Edit my Register of Interests. The relevant part of the form looks like this:

<b>12. Gifts and hospitality - Have you received (in your capacity as a member/co- opted member) a gift or hospitality with an estimated value of at least £50 from any body or person?</b>	
<b>Name of body/person</b>	<b>Gift and value</b>

Once you have edited the form click on Submit for Sign Off. Your edited form is returned

to Democratic Services who will check it and sign it off. Once this process has been completed it will be visible on the Council's web page <http://chichester.moderngov.co.uk/>.

**Further assistance**

It is each Member's own individual responsibility to observe this guidance but the Monitoring Officer and Democratic Services officers will help where possible. If you have any questions at all please contact the Monitoring Officer for advice and assistance.

## **5.2 Arrangements for Dealing with Standards Allegations under the Localism Act 2011**

### **1. Context**

These Arrangements set out how you may make a complaint that an elected or co-opted member of this authority or of a Parish Council within the District has failed to comply with the authority's code of conduct, and set out how the authority will deal with allegations of a failure to comply with the authority's code of conduct.

Under section 28 (6) and (7) of the Localism Act 2011, the Council must have in place 'arrangements' under which allegations that a member or co-opted member of the authority or Parish Council or of a committee or sub-committee of the authority has failed to comply with that authority's code of conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one 'independent person', whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated and whose views can be sought by the authority at any other stage, or by a member against whom an allegation has been made.

### **2. The Code of Conduct**

The Council has adopted a Code of Conduct for members, which is attached as appendix one to these Arrangements (available at Part 5.1 of this Constitution) and available for inspection on the authority's website and on request from the reception desk at Chichester District Council East Pallant House 1 East Pallant Chichester.

### **3. Making a complaint**

If you wish to make a complaint, please write or e-mail to:

Mr Nicholas Bennett  
Monitoring Officer  
Chichester District Council  
East Pallant House  
1 East Pallant  
Chichester West Sussex PO19 1TY

[nbennett@chichester.gov.uk](mailto:nbennett@chichester.gov.uk)

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the reception at Chichester District Council East Pallant House 1 East Pallant Chichester.

Please do provide us with your name and a contact address or e-mail address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. A full copy of your complaint form and supporting documents will be sent to the member against whom your complaint is about (the subject member). The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. We will consider your request and if we decide to agree to it we will not disclose your name and address to the member against whom you make the complaint without your prior consent. If we refuse your request you will be notified and given the opportunity to decide whether or not you wish to proceed with your complaint.

The subject member may provide his/her written comments about your complaint to the Monitoring Officer.

The subject member will have the opportunity to consult, at this stage, with an Independent Person.

#### **4. Validation**

Your complaint will be considered by the Monitoring Officer. If she is of view that it does not fundamentally relate to a code of conduct matter she will decline to process it further under this procedure. For example it is generally considered that complaints about statements made in respect of the merits of a planning application will not be dealt with under this procedure. The planning system itself is considered to give all parties a fair opportunity to express their views and comment upon the views of others. The code of conduct complaints procedure will not produce an outcome that will assist in the planning process.

If the Monitoring Officer has declined to process your complaint further under this procedure, you will be informed of this and, if possible other options open to you will be suggested.

Once validated by the Monitoring Officer, your complaint will proceed to the Initial Assessment.

#### **5 Will your complaint be investigated?**

##### Monitoring Officer's Initial Assessment

The Monitoring Officer will carry out an initial assessment of every complaint received and, after consultation with the Independent Person, may take a decision as to whether it should proceed to the Assessment Sub-Committee stage. The details given in your complaint form together with any supporting documents that you have submitted, together with any comments that the subject member has made and any further response from you, will be taken into consideration.

The Monitoring Officer may decide a complaint does not proceed if:

- It is about someone who is no longer a member of the Council

- There has been a long delay before the complaint was made
- The complaint appears to be minor, politically motivated, malicious or not sufficiently serious to warrant further action
- Whilst framed as a code of conduct matter, is fundamentally a challenge to an expression of fact or opinion made during a debate at a Council meeting or is fundamentally a challenge to the underlying merits of a council determination (e.g. a planning application)
- In order to resolve the matter, you are prepared to accept and the subject member has given a written apology
- Both you and the subject member are prepared to resolve the matter by having a mediation / conciliation meeting

This list is not intended to be exhaustive and the Monitoring Officer in consultation with the Independent Person may decide that a complaint does not merit further consideration for any other reason which appears to them to be relevant.

If you are a parish councillor and the subject member (or one of them) is a member of the same parish council, the Monitoring Officer may, in consultation with the Independent Person, refer the entire complaint to the Sussex Associations of Local Councils (SALC). SALC will appoint a Panel to hear your complaint and decide whether it is sufficiently serious to be put through the procedure set out below or whether it should be settled in some other way within the parish council.

Where the Monitoring Officer has taken the decision that the complaint does not merit further consideration or is to be referred to SALC for mediation / conciliation, the Monitoring Officer will inform you of his/her decision and the reasons for that decision.

### Assessment Sub Committee

The Assessment Sub-Committee will consist of three members of the Council's Standards Committee. If the subject member is a parish councillor, a parish councillor who is a co-opted member of the Standards Committee will also attend in an advisory capacity. The Monitoring Officer will refer the complaint to the Assessment Sub-Committee provided she considers it is appropriate to do so (see above: Monitoring Officer's Initial Assessment).

The complaint form and any supporting documents that have been submitted will be copied to all members of the Sub Committee.

Having received a copy of the complaint form the subject member may have submitted written comments to the Monitoring Officer. Such comments will also be copied to all members of the Assessment Sub-Committee, together with any further response from you.

The Assessment Sub-Committee is likely to be held in private and therefore neither you nor the subject member may attend. The Monitoring Officer and the Independent Person will attend and, if required, give advice.

The Assessment Sub-Committee may decide:

- (i) To take no further action on the complaint
- (ii) To ask for further information
- (iii) To refer the complaint to the Monitoring Officer to arrange for an investigation to be carried out
- (iv) To refer the matter to the Monitoring Officer for other steps e.g. for a written apology from the subject member to be sent to the complainant or to request mediation / conciliation or training for the member
- (v) To refer the complaint to the police or other regulatory agency if the complainant identifies potential criminal conduct or breach of other regulation.

Where the Monitoring Officer or the Assessment Sub-Committee requires additional information in order to come to a decision, you may be asked to provide such information or the Assessment Sub-Committee may request information from the subject member against whom your complaint is directed.

As stated above, the Assessment Sub-Committee may request that the Monitoring Officer attempts to resolve the matter informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology or other actions.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the police and/or other regulatory agencies.

The complainant and the subject member will be notified of the Assessment Sub-Committee's decision with reasons.

## **6. How is the investigation conducted?**

The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as appendix two to these Arrangements.

If the Assessment Sub-Committee decides that a complaint merits formal investigation, the Monitoring Officer will appoint an investigating officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether they need to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the subject member and ask that member to provide his/her explanation of events, and to identify what documents they need to see and who they need to interview. In exceptional cases, where it is appropriate to keep your identity confidential or where disclosure of details of the



complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the subject member, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send their final report to the Monitoring Officer.

**7. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and, if satisfied, in consultation with the Independent Person, that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the subject member, notifying you that they are satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, the Investigating Officer may be asked to reconsider the report.

**8. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and will then refer the matter for local hearing before the Hearing Sub-Committee.

The Hearing Sub-Committee will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached as Appendix Three to these Arrangements.

Essentially, the Monitoring Officer will conduct a pre-hearing process, requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing. At the hearing, the Investigating Officer will present his/her report, call such witnesses as considered necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearing Sub-Committee. The subject member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearing Sub Committee as to why they consider that they did not fail to comply with the Code of Conduct.

The Hearing Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearing Sub-Committee concludes

that the member did fail to comply with the Code of Conduct, it will then consider what action, if any, the Hearing Sub-Committee should take as a result of that failure to comply. In doing this, the Hearing Sub-Committee will give the subject member an opportunity to make representations and will consult the Independent Person, and will then decide what action, if any, to take in respect of the matter.

**9. What action can the Hearing Sub-Committee take where a member has failed to comply with the Code of Conduct?**

The Standards Committee has delegated to the Hearing Sub-Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearing Sub-Committee may:

- a. Publish its findings in respect of the member's conduct.
- b. Write a formal letter of censure to the councillor found to have breached the Code of Conduct.
- c. Report its findings to the Council meeting for information.
- d. Recommend to the member's group or the parish council (or in the case of ungrouped members recommend to the Council meeting) that they be removed from any or all committees or sub-committees of the Council.
- e. Recommend to the Leader of the Council or the parish council that the member be removed from the Cabinet or be removed from particular portfolio responsibilities, or if the subject member is the Leader of the Council, recommend to the Council that the Leader be removed from office in accordance with Article 6 of Part 2 of the Constitution.
- f. Recommend to the relevant Council to arrange training or mediation / conciliation or other appropriate remedy for the member.
- g. Accept the written apology of the subject member to you.

The Hearing Sub-Committee has no power to suspend or disqualify the member or to withdraw members' basic or special responsibility allowances.

**10. What happens at the end of the hearing?**

At the end of the Hearing Sub-Committee, the chairman will state the decision of the Hearing Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearing Sub-Committee resolves to take.

As soon as reasonably practicable thereafter, a formal decision notice will be issued and a copy will be sent to you, to the subject member and the clerk to any relevant parish council. The decision notice will be available for public inspection at the Council's offices and the decision may be reported to the next meeting of the Council.

**11. Who sits on the Hearing Sub-Committee?**

The Hearing Sub-Committee is a sub-committee of three (3) members of the Council's Standards Committee. The Hearing Sub-Committee will elect one of its members to act as chairman.

The Independent Person is invited to attend all meetings of the Hearing Sub-Committee and their views are sought and taken into consideration before the Hearing Sub-Committee takes any decision on whether the 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.

## **12. Who is the Independent Person?**

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is then appointed by the Council. The definition of an Independent Person can be found in section 28 of the Localism Act 2011.

## **13. Revision of these arrangements**

The Council may by resolution agree to amend these Arrangements, and has delegated to the Monitoring Officer the right to depart from these Arrangements where she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **14. Appeals**

There is no right of appeal for you as complainant or for the subject member against a decision of the Monitoring Officer or of the Assessment Sub-Committee or Hearing Sub Committee.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

## **Appendix 2 to Arrangements for Dealing with Standards Allegations under the Localism Act 2011**

### **Investigations Procedure**

#### Introduction

This document sets out the procedure which will be followed once a decision has been taken that an allegation of misconduct by a member should be investigated.

It should be read in conjunction with the document Arrangements for Dealing with Standards Allegations under the Localism Act 2011.

#### The appointment of the Investigating Officer

Upon deciding to refer an allegation for investigation, the Monitoring Officer will appoint an Investigating Officer and instruct him/her to conduct an investigation of the allegation and report on it. The Monitoring Officer may appoint a replacement if the Investigating Officer is unable to complete the investigation. The Investigating Officer may be an officer of the authority or another authority or an external investigating officer. They should not be connected with the Standards Committee.

#### The role of the Investigating Officer

The role of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented in their report.

Subject to the agreement of the Monitoring Officer, the Investigating Officer may appoint a person(s) to assist him/her in the conduct of his/her functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

#### Notification requirements

Once an Investigating Officer has been appointed, the Monitoring Officer will notify the subject member against whom the allegation has been made that the matter is being referred for investigation and inform him/her who is conducting the investigation.

The Monitoring Officer will notify the complainant that an investigation will take place and that they may be contacted in relation to that investigation.

#### Conduct of the investigation

The Investigating Officer shall have a broad discretion as to how to conduct the investigation.

They may require the subject member and the complainant to provide them with information and/or documents which are relevant to the investigation. They may require them to provide details of other people who may be able to assist with the investigation.

The Investigating Officer may request any person to attend an interview with him/her and/

or provide him/her with documents and/or information.

Any person who is interviewed may arrange to have a friend or solicitor with him/her (provided that person is not connected to any matter under investigation).

The Investigating Officer will produce a written statement for signature in respect of any interviews that they conduct.

#### Referral to the Monitoring Officer

The Investigating Officer may refer the matter back to the Monitoring Officer if it appears to them appropriate to do so. For example, if the member is seriously ill or the decision to investigate should be reconsidered in the light of new evidence.

#### Deferral of investigation

The Monitoring Officer has discretion to defer the investigation if it appears appropriate to do so. For example, if there is a criminal investigation taking place.

#### Confidentiality

The Investigating Officer shall request that anyone contacted in relation to the investigation shall maintain confidentiality in order to maintain the integrity of the process.

#### Draft report

When the Investigating Officer is satisfied that they have sufficient information, or have obtained as much information as is reasonably practicable to obtain, they shall prepare a confidential draft report setting out the details of the allegation, the relevant sections of the code, a summary of the allegation, the response of the subject member, the information, documents and evidence taken during the course of the investigation, a statement of his/her draft findings, and the Investigating Officer's conclusion as to whether the member has breached the Code of Conduct.

The draft report should be sent to the Monitoring Officer, the complainant, the subject member and the Independent Person for their comments. The Investigating Officer may wish to conduct further investigations once they have received those comments, before producing the final report.

#### Final report

The final report should include the same sections as the draft report and a final conclusion as to whether there has been a breach of the Code of Conduct.

It may be helpful to include a chronology, summary of disputed facts and/or to append witness statements or other documents.

#### Action on receipt of report

If the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will review the report and, if satisfied that the report is sufficient, in consultation with the Independent Person, will write to

the complainant and the subject member notifying them that no further action is required and enclosing a copy of the report.

If the Monitoring Officer is not satisfied that the investigation has been conducted properly, she may ask the Investigating Officer to reconsider his/her report.

If the report concludes that there is evidence of a failure to comply with the Code of Conduct the matter will be referred to the Hearing Sub-Committee.

The hearings process is the subject of a separate procedure.

## **Appendix 3 to Arrangements for Dealing with Standards Allegations under the Localism Act 2011**

### **Hearings Procedure**

The following process will be followed where the Investigating Officer has considered that there is evidence that the subject member has breached the Code of Conduct.

#### **Pre-hearing process**

The Monitoring Officer will, where possible, arrange for the Hearing Sub-Committee to meet to hear the complaint within three months of receiving the Investigating Officer's report. She should aim to find a date which the witnesses, the Investigating Officer, the complainant and the subject member can attend. The Monitoring Officer should give all those involved sufficient notice of the date for the Hearing Sub-Committee meeting.

The Monitoring Officer will require the subject member to give his/her response to the Investigating Officer's report in order to identify what is likely to be agreed and what is likely to be in contention at the Hearing Sub-Committee.

If the subject member wishes to rely on evidence at the committee, they should provide it in writing to the Monitoring Officer as soon as possible. The Investigating Officer may have taken a witness statement from him/her or set out his/her comments in the report but if the subject member wishes to add to what the Investigating Officer has written they should provide a witness statement to the Monitoring Officer as soon as possible.

The Hearing Sub-Committee will not allow new arguments or evidence to be presented at the hearing.

The Monitoring Officer will consider whether it is appropriate to hear two complaints together e.g. if they relate to the same member or to the same incident or occasion.

The subject member should be provided with the Investigating Officer's report and any evidence which will be heard at the hearing.

The Monitoring Officer should provide the members of the Hearing Sub-Committee with all the evidence in advance of the hearing so that they can read it to identify any potential conflicts of interest.

The Monitoring Officer will provide the Hearing Sub-Committee with a report which summarises the allegation. This should include a list of agreed facts and disputed issues and outline the proposed procedure for the hearing (this will be based upon the Procedure for the Hearing Sub-Committee at the end of this appendix).

A Member Services officer will act as a point of contact for the subject member, the complainant, the Independent Person and any witnesses who will give evidence.

## **The Hearing Sub-Committee**

The Hearing Sub-Committee will generally take place in public. If the subject member is a parish councillor, a parish councillor who is a co-opted member of the Standards Committee will attend in an advisory capacity, in addition to the three voting members of the Sub-Committee.

An Independent Person will be invited to attend the hearing and will be asked to comment on whether there has been a breach of the Code of Conduct and on appropriate sanctions.

If the subject member does not attend the hearing, the Hearing Sub-Committee may adjourn the hearing or may continue to reach a decision on the basis of the Investigating Officer's report and, if it decides to do so, any evidence that it hears.

Whilst the Hearing Sub Committee is a meeting of the authority, it is not a court of law. It does not hear evidence under oath. The rules of natural justice should nevertheless be carefully followed and the Hearing Sub-Committee will have due regard to the seriousness of the proceedings for those involved, the Council and the public.

The Hearing Sub-Committee will decide disputed issues and whether the subject member has breached the code on the balance of probabilities.

## **Representation**

The subject member may choose to be represented if they wish. They will have to bear the cost of being represented. The Hearing Sub-Committee may refuse to allow any person to remain at the hearing if they are disruptive. The Hearing Sub-Committee will have the discretion to hear opening or closing arguments from the subject member and the Investigating Officer if it feels it would assist them in reaching a decision.

## **Evidence**

The Hearing Sub-Committee will control the procedure and evidence presented at a hearing, including the number of witnesses and the way they are questioned. All matters relating to the evidence and procedure are within its discretion.

Generally the subject member is entitled to present his/her case as they see fit.

Witnesses of facts that are disputed would normally be expected to attend to be questioned. Character witnesses will normally provide written evidence, which can be read at the hearing.

Witnesses may be questioned by the Hearing Sub-Committee, the Independent Person, the Investigating Officer and the subject member.

The onus is on the subject member to ensure the attendance of the witnesses whom they would like to give evidence to assist them. The Hearing Sub-Committee can limit the number of witnesses or the issues which can be covered by them.

Neither the Hearing Sub-Committee nor the subject member will have any power to compel witnesses to give evidence.



## **At the Hearing Sub Committee**

At the hearing, the Investigating Officer will present his/her report, call such witnesses as they consider necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. The Investigating Officer may ask the complainant to attend and give evidence to the Hearing Sub-Committee. The Investigating Officer may be asked about his/her report or any matters relating to his/her involvement.

## **Role of the Monitoring Officer**

References to the Monitoring Officer should be read to include any representative of the Monitoring Officer.

The Monitoring Officer has a key role in ensuring the smooth running of the pre-hearing and hearing process. He or she will remain neutral throughout and will provide independent advice to the Hearing Sub-Committee.

## **Role of the complainant**

The role of the complainant will usually be limited to being a witness for the Investigating Officer and they are not a party to the proceedings. However, the Hearing Sub-Committee might wish to consult him/her at any stage in the hearing if it feels that his/her comments would assist it.

## **Decision**

The Hearing Sub-Committee must consult the Independent Person before reaching its decision.

The Hearing Sub-Committee may wish to retire to consider its decision. The Monitoring Officer may assist it in setting out the reasons for their decision.

The Hearing Sub-Committee will reach a decision as to whether the subject member has breached the code of conduct. If it decides that the subject member has not breached the Code of Conduct, it will take no further action. If it decides that the subject member has breached the Code of Conduct, it should go on to decide what sanction, if any, is appropriate.

## **Sanctions**

The Hearing Sub-Committee will consult the Independent Person before imposing any sanction and give the subject member the opportunity to make representations.

The Hearing Sub-Committee should consider all the mitigating and aggravating circumstances that appear to it to be relevant. For example, it may wish to consider:

- What were the actual and potential consequences of the breach?
- How serious was the breach?
- What is the attitude of the subject member now? Have they apologised?
- Has the subject member previously been dealt with for a breach of the Code of

## Conduct?

The following are examples of mitigating and aggravating factors, but these lists should not be regarded as exhaustive.

### **Mitigating Factors**

- An honest but mistaken belief that the action was not a breach of the Code of Conduct
- A previous record of good service
- Evidence that they were suffering from ill health at the time of the breach

### **Aggravating Factors**

- Dishonesty
- Continuing to deny the facts or blaming other people
- Evidence of a failure to follow advice or warnings

The priority of the Hearing Sub-Committee should be to ensure that there are no further breaches of the Code of Conduct and that public confidence is maintained.

### **Sanctions**

The sanctions available to the Hearing Sub-Committee are:

- Publish its findings in respect of the member's conduct.
- Write a formal letter of censure to the member found to have breached the Code of Conduct.
- Report its findings to Council for information.
- Recommend to the member's group leader or the Parish Council (or, in the case of un-grouped members, recommend to the Council meeting) that they be removed from any or all committees or sub-committees of the Council.
- Recommend to the Leader of the Council or the Parish Council that the member be removed from the Cabinet or removed from particular portfolio responsibilities.
- Recommend to the relevant Council training, mediation / conciliation (or other appropriate remedy) for the member.
- Accept the written apology of subject member.

### **Notice of the decision**

As soon as is reasonably practicable after the hearing, the Monitoring Officer shall issue a formal decision notice in consultation with the chairman of the Hearing Sub-Committee, and send a copy to the complainant, the subject member and any relevant parish council. The decision notice will be available for public inspection and may be reported to the next meeting of the Council.

### **Procedure of the Hearing Sub-Committee**

- 1 Election of a chairman.
2. Chairman to introduce members and all parties present.

3. Chairman to outline complaint and explain procedure.
4. Investigating officer to outline the case as to why they believe the subject member has breached the Code of Conduct and call any witnesses (including the complainant if necessary).
5. Subject member and the Hearing Sub-Committee may ask questions of the Investigating Officer and any witnesses.
6. The subject member outlines their case as to why they believe that they have not breached the Code of Conduct and may call witnesses.
7. The Investigating Officer (and possibly the complainant) and the Hearing Sub-Committee may ask questions of the subject member or any of his/her witnesses.
8. The subject member and the Investigating Officer may be asked to give brief closing remarks.
9. The Independent Person will be invited to give comments.
10. The Hearing Sub-Committee will retire to consider whether the subject member has breached the Code of Conduct.
11. The chairman will announce the Hearing Sub-Committee's decision as to whether the Code of Conduct has been breached by the subject member.
12. If no breach, is found the meeting will be closed.
13. If a breach is found, the subject member will be invited to give further comment on any mitigating circumstances;
14. The Investigating Officer may comment upon appropriate sanction.
15. The Independent Person will be invited to give further comments.
16. The Hearing Sub-Committee will retire to consider sanction.
17. The Hearing Sub-Committee will announce sanctions which it is imposing on the subject member and then close the meeting.
18. A written decision notice will be issued and sent to all parties as soon as reasonably practicable after the Hearing Sub-Committee.

## **5.3 Code of Conduct for Employees**

### **EMPLOYMENT POLICY STATEMENT**

#### **Policy Statement**

Local Government employees are expected to give the highest possible standards of service to the public and, where it is part of their duties, to provide appropriate advice to other employees and Councillors with impartiality. The Council requires all of its employees to comply with this policy statement and to demonstrate the highest standards of probity, honesty and professionalism.

#### **Scope**

This policy relates to all employees employed by the District Council.

This policy statement will be brought to the attention of all Chichester District Council employees.

In addition to all requirements that exist in regulation, the national conditions of service and the Council's own local employment policies and contracts of employment contain many references to conduct and are incorporated where appropriate into this policy statement. In particular, the Council has approved policies in areas such as Diversity and Equality and Bullying and Harassment and all employees are expected to behave in a way which does not conflict with those policies.

#### **Policy Standards**

##### **1. Disclosure of Information**

- 1.1 It is generally accepted that open government is best and this is supported by the wide access that the Freedom of Information Act gives to public information, in addition to the fact that certain other information must be made available to Councillors, auditors, government departments, service users and the public.
- 1.2 The authority itself may decide to make public other types of information. Employees must be aware of the types of information which in Chichester District Council are open and those which are not, and act accordingly. The Council's policy is to make as much information available to the public as possible. In preparing committee reports, for example, 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 Company concerned. Whenever possible, reports should be written so that they can be made public. Generally, therefore, factual information may be released unless:
  - (i) it is (or is likely to be) the subject of an exempt report; or
  - (ii) it relates to the personal circumstances of an employee, a councillor or council tax-payer or user of Council services; or
  - (iii) it is covered by restrictions under the Data Protection Act.

Guidance can be obtained from Democratic Services or Legal Services in respect of reports to committee.

- 1.3 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received from a Councillor or a fellow employee which is personal to that person and does not belong to the Council, should not be divulged without the prior approval of that person.
- 1.4 Services have individual policies and procedures for handling requests for information from councillors and managers must ensure that all employees are familiar with departmental conventions and practice.

## **2. Political Neutrality**

- 2.1 Employees service the Council as a whole. It follows that they must serve all Councillors and not just members of any controlling group of councillors, and must ensure that the individual rights of all councillors are respected.
- 2.2 Whether or not their post is politically restricted, employees must follow every lawful expressed policy of the Council and must not allow their personal or political opinions to interfere with their work. Information on politically restricted posts can be obtained from the Human Resources.
- 2.3 Employees who are involved in politics or who speak as a private individual directly to the press or at a public meeting should ensure that nothing they say might lead the public to the conclusion that they were representing the Council's views. Employees should be circumspect in commenting publicly on topics where the Council has an interest, perhaps as a service provider.

## **3. Relationships**

### **3.1 Councillors**

Employees are responsible to the Council through its senior managers. For some, a key task is to give advice to councillors and the Council. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity with individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

Employees must be mindful that councillors have been elected by the community to represent their interests and therefore have a special role in the Council in determining policy, setting strategic priorities and monitoring work programmes. They must be treated at all times with courtesy and respect. Although it is desirable to meet councillors in a friendly, open and sincere fashion, undue familiarity can be counter-productive and can sometimes be regarded as impolite. First name terms are acceptable in informal discussions and meetings as well as in writing. A degree of formality such as the use of the formal title 'Councillor' should be observed at committee and sub-committee meetings when the public or third parties are present and at other meetings with third parties or the public.

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

Employees should always remember their responsibilities to the community and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.

### **3.3 Contractors**

All personal relationships with contractors or potential contractors (i.e. contractors who could bid for Council work) should be declared in writing to a Senior Officer and the Monitoring Officer. In certain cases, not to divulge such information could contravene the law.

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.

If employees engage or supervise contractors or have an official relationship with contractors and have previously had or currently have a relationship (i.e. working or friendship) in a private or domestic capacity with a contractor or potential contractor, they should declare in writing that relationship to their Head of Service.

## **4. Appointment and other Employment Matters**

4.1 If employees are involved in appointments they should ensure that these are made on the basis of merit. It would be unlawful to make an appointment which was based on anything other than the ability of the candidate to undertake the work. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or where they or a close member of their family have a personal relationship (including friendship) outside work with him or her. Any such relationship must be declared in writing to the Head of Service.

4.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend.

4.3 Only Senior Officers are authorised to give employer's references on behalf of the Council. It is acceptable for other employees to give character references for a colleague but they must make clear that they are writing in a personal capacity and must not use official notepaper. Employees are expected to consult their Director or before including them as referees in an application form.

## **5. Outside Commitments**

5.1 Employees may have conditions of service which require them to obtain written consent before taking any outside employment and should be clear about their contractual obligations. No employees should take outside employment which conflicts with the authority's interests. Depending on the post held and service, this

could for example include being employed by or having a financial interest in contractors bidding for/carrying out council work or commercial companies competing for work with the Council.

5.1 The Council has adopted the following policies:-

1. employees on Hay Scale 6 or above (and equivalent grades) shall not engage in any other business or take up any additional appointment without the express consent of the Council;
2. employees on Hay Scale 5 or below (and equivalent grades) may use their own time as they wish, provided additional employment or other external activities (whether paid or not) do not conflict with the authority's interests, weaken confidence in the conduct of the Authority's business;
3. all employees are covered by (i) and (ii), whether or not they are covered by the relevant national conditions of employment;
4. work arising from additional employment or other outside interests may not be carried out in office time nor use made of Council resources or facilities (including IT) for those purposes.

5.2 Employees should follow the Council's policies on the ownership of intellectual property or copyright created during their employment, as follows:-

1. all creative designs, writings and drawings produced by employees in the course of their duties, belong to the Council;
2. all inventions made by employees are the property of their Council if made during the course of their normal duties (which include those described in their notice of terms of employment, and those duties arising from an instruction or a relevant Manager or other authorised officer of the Council).

## **6 Personal Interests**

- 6.1 All employees must declare in writing to their **D i r e c t o r** , non-financial interests which they consider could bring about conflict with the authority's interests, for example involvement with an organisation receiving grant aid from the authority, membership of a public sector governing body, and involvement with an organisation or pressure group which may seek to influence the Council's policies. This would not include involvement as an ordinary member of the public, e.g. in being consulted or attending meetings of an organisation on a local issue.
- 6.2 Employees must declare in writing to their Director any financial interests which could conflict with the Authority's interests, e.g. any pecuniary interest in a business or company within the District or with which the Council might do business.
- 6.3 Employees must declare in writing to their **D i r e c t o r** membership of any organisation (including societies, masonic lodges, chapters or trusts) not open to the public without formal membership and commitment of allegiance, and which has secrecy about its rules or conduct.

- 6.4 Employees must declare in writing to their **D i r e c t o r** any interest they have as freeholder, lessee, licensee or tenant in any land or property in the District except their main residence as recorded in their personnel records.
- 6.5 Employees must never become involved in dealing with or determining any application or request they or a member of their family, relative or personal friend make to the Council, for example an application for planning permission or for council tax or housing benefit. In the event of an employee being allocated such a case, he or she should immediately declare this in writing to his/her Director.

## **7 Equality Issues**

- 7.1 Employees have an obligation to ensure that policies relating to equality issues as agreed by the Council are complied with, as well, of course, as the requirements of the law. All members of the public and other employees have a right to be treated with fairness and equity.

## **8 Separation of Roles during Tendering**

- 8.1 Employees must be clear of the separation of client and contractor roles within the Council. Senior employees with both a client and contractor responsibility must be aware of the need for accountability and openness. Regulations for competitive tendering have particular requirements for ensuring that contractor units are not involved in tender evaluation. If in doubt, employees should consult Legal Services.
- 8.2 If employees are in a contractor or client unit they must exercise fairness and impartiality when dealing with all customers, suppliers, contractors and sub-contractors.
- 8.3 If employees are privy to confidential information on tenders or costs for either internal or external contractors, they should not disclose that information to any unauthorised party or organisation.
- 8.4 Employees should ensure that no special favour is shown to work colleagues or former employees of the Council or their partners, close relative or associates, in awarding contracts.

## **9 Gifts & Hospitality**

- 9.1 It is a criminal offence for employees corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. It is for the employee to demonstrate that any such rewards have not been corruptly obtained. Corruption is fortunately a very rare event in local government but just as important is the perception that the public has of the activities of the Council. Their confidence in the integrity of employees will be shaken if there is the least suspicion that employees have been influenced by improper motives.

### **9.2 Gifts**

- 1. A gift offered to employees may be accepted if



- it is of nominal value e.g. calendars, diaries, pens etc., and
  - no ulterior motive is apparent nor is there any danger of misinterpretation by the public (for example, because the offer comes from a person or Company tendering for work).
2. Gifts outside the scope of the above guidelines should normally be politely but firmly refused, unless refusal would give offence. In such a case, the gift could be accepted and donated to charity with a suitable explanation to the person or Company concerned. Receipt of gifts in these circumstances should be reported to D i r e c t o r s in accordance with paragraph 9.4 below. They should always be refused if an ulterior motive is or may be apparent.
  3. Gifts offered by grateful members of the public can similarly be accepted where the value is nominal and a refusal might otherwise give offence. Some members of staff, however, regularly come into contact with the public and a frequent reoccurrence of small gifts might give the impression that they are expected or a reward for favourable treatment. In these circumstances, gifts should normally be refused. Alternatively, if refusal would give serious offence, they could be accepted and the rules mentioned above applied. Christmas gratuities traditionally associated with certain categories of employment may be accepted without the need to record details - provided that the value of the gifts is not excessive.
  4. Staff whose work is closely involved with the elderly, children or other vulnerable groups must be particularly mindful of the perception which might occur in the minds of, say, relatives if the employee is the recipient of gifts from the individual involved - however well-intentioned. Any member of staff who has reason to believe that they (or a spouse, partner, relative etc.) have been named as a beneficiary or who is asked to become an executor in any will in consequence of their employment by the Council must immediately declare this in writing to their Director.
  5. In any event, employees should refuse an offer or try to avoid situations where they are likely to be offered a gift from a person or Company engaged in negotiating a contract or other matter with the Council, or who has negotiated such a matter and where they are directly responsible for formulating recommendations to the Council or for monitoring the service received from the person or Company concerned. If the contract or other matter has been completed, and there is no obvious likelihood of a renewal, then the previous paragraphs apply.

### **9.3 Hospitality**

1. Employees should only accept offers of hospitality if there is a genuine need to impart information, represent or promote the interests of the Council in the Community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. Any hospitality accepted should be properly authorised and recorded. (See 9.4 below).

2. When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.
3. Employees should not accept gifts from contractors and outside suppliers other than as set out in 9.2(i) above.
4. When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
5. Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal and not extravagant and where a Director gives consent in advance - being satisfied that any purchasing decisions are not compromised.
6. The following are intended as examples only:

#### **Acceptable Hospitality**

- A working lunch of a modest standard provided to allow the parties to discuss business, or following or prior to such a discussion. A useful test will often be whether the District Council would provide refreshments if the venue was reversed. If there is a series of meetings requiring hospitality, the District Council should seek to host it on an approximately alternate basis.
- An invitation to a professional society, dinner or function, e.g. a private architect's invitation to an RIBA Dinner.
- An invitation to join other company guests as district council representatives at sponsored events, cultural, sporting or other public occasions in West Sussex or neighbouring counties. Non-reciprocal company invitations to events further afield, including London, should always be notified to the Chief Executive, as should any invitations to particularly costly or exclusive occasions - which in any event should not be accepted.
- An invitation to join other company guests in a company jubilee, opening or other special occasion.

Whilst the first three points above are permissible arising out of occasional invitations, employees should bear in mind that accepting frequent invitations from the same source could well lead to criticism and render the otherwise acceptable, unacceptable. Essentially, the test must be whether the public's confidence in the integrity of the organisation would be shaken by the conduct of the employee in accepting the hospitality.

#### **Unacceptable Hospitality**

- Paid holiday or leisure travel or accommodation.
- Tickets for premium events (e.g. cricket, tennis, football and rugby matches) which are offered on a personal basis.
- Use of company flat or hotel suite or vehicles.
- Discounted services, materials, labour etc. from contractors or suppliers which are not equally available on the same basis to others not having an actual or potential business link with them. Employees may consider it appropriate to get more than one quote for private works, e.g. on their own house, if a supplier to the District Council is involved.

When a particular person or firm has a matter currently in issue with the District Council then clearly common sense dictates a more restrictive approach. An important criterion in exercising judgement is what interpretation others might reasonably put on acceptance. In case of doubt, the employee's Director should be consulted.

#### **9.4 Register for Gifts and Hospitality**

Employees must record all gifts and hospitality received and signed off by their Director, and any offered but rejected, in the Register maintained in every section. This must include all gifts and hospitality other than those described in 9.2(i) above.

- 9.5 In all cases, employees are advised to err on the side of caution. If they have doubts, they should seek advice from their Director. What matters above all else are the reputations of employees, the Council and local government generally.

### **10 Use of Financial Resources**

- 10.1 Employees must ensure that they use public funds entrusted to them in a responsible manner, ensuring value for money to the local community and avoiding legal challenge to the Authority. If employees are in doubt about their obligations, they must seek advice.

### **11 Sponsorship – Giving and Receiving**

- 11.1 Where an outside organisation wishes to sponsor or is asked to sponsor a Local Government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors (i.e. contractors who could bid for Council work).
- 11.2 Where the Council wish to sponsor an event or service no member of employees nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure in writing to their Head of Service of any such interest before any such benefit occurs. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that

there is no conflict of interest involved.

## **12 Employee Obligations**

- 12.1 The Code has been designed to protect and safeguard the individual position and interests of employees as much as those of the Council. Its aim is to encourage employees to inform their Head of Service confidentially on certain personal matters that could affect their duties at the Council. Failure to follow the Code could lead to embarrassing and/or difficult situations and ultimately to an investigation under the Council's disciplinary procedure.
- 12.2 Employees may, through agreed procedures and without fear of recrimination bring to the attention of the management any deficiency in the provisions of service. Normally employees would be expected to report to their Head of Service but in exceptional cases could approach the Chief Executive, Head of Finance and Governance Services, an Executive Director or the Monitoring Officer.

## **13 Recording of Declarations**

- 13.1 With the exception of entries in the hospitality registers held in departments, all written declarations by employees under the terms of this code of conduct must be copied by Directors to the Director of Corporate Services for recording on confidential central personnel records.

## 5.4 Protocol on Member/Employee Relations

### Introduction

This protocol reflects principles already established in the former National Code of Local Government Conduct.

- “23 Both councillors and officers are servants of the public, and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their terms of office last. Officers are responsible to the Council. Their job is to give advice to councillors and the Council and to carry out the Council’s work under the direction and control of the Council, their committees and sub-committees.
- 24 Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage this relationship and prove embarrassing to both councillors and officers.
- 25 The law and standing orders lay down rules for the appointment, discipline and dismissal of employees. You must ensure that you observe these scrupulously at all times. If you are called upon to take part in appointing an officer, the only question you should consider is which candidate would best serve the whole Council. You should not let your political or personal preferences influence your judgement ...”

### Conduct of Councillors

#### *Community Leadership*

- ▶ You should promote and support these principles by leadership and example, always acting in such a way as to preserve public confidence in the Council.

#### *Duty to uphold the law*

- ▶ You have a duty to uphold the law, and to act on all occasions in accordance with the public trust placed in you.

#### *Constituency*

- ▶ You have a duty to assist the Council to act as far as possible in the interests of the whole community that it serves. Where constituents’ interests are in conflict with those of other groups or areas, you should help to ensure that the Council is aware of them and that constituents are able to pursue their concerns, but you are not obliged to put the interests of constituents above the general interest.

#### *Selflessness*

- ▶ You should act solely in the public interest. You should never use your position as a councillor to gain for yourself, your family or your friends any financial benefits preferential treatment or other advantage, or to confer such benefits, treatment or advantage improperly on others.

#### *Integrity and Propriety*

- ▶ You should not put yourself in a position where your integrity is called into question

by any financial or other obligation. As well as avoiding actual impropriety, you should avoid any appearance of it.

#### *Hospitality*

- ▶ You should record all gifts and hospitality received in connection with membership of the Council. You should not accept gifts or hospitality that might reasonably be thought to influence, or be intended to influence, your judgement, or where to do so could bring discredit upon the Council.

#### *Decisions*

- ▶ Whilst you may very properly be influenced by the views of others, including your political group, it is your responsibility to decide what view to take, and how to vote, on any question which councillors have to decide.

#### *Objectivity in decision-making*

- ▶ In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make decisions on merit.

#### *Accountability*

- ▶ You are accountable to the electorate and the Council's wider community for your actions and your part in reaching decisions and must submit yourself to whatever scrutiny is appropriate to your office.

#### *Openness*

- ▶ You should be as open as possible about all your actions and your part in reaching decisions. You should seek to ensure that reasons are given for decisions of your council and that disclosure of information is restricted only in accordance with the law.

#### *Confidentiality*

- ▶ You should also ensure that confidential material, including material about individuals, is handled in accordance with the law and – having regard to the public interest – any decisions on such handling taken by the Council and is not used for private purposes.

#### *Stewardship*

- ▶ You have a responsibility to play your part in ensuring that the Council uses its resources prudently and in accordance with the law.

#### *Participation*

- ▶ You may take part in the consideration of questions which come before councillors unless you have a private interest of a kind which, in accordance with this Code, precludes you from participation.

#### *Declarations*

- ▶ You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- ▶ You should make relevant declarations of interest at meetings of the Council, its committees and working groups, or any outside body to which you are appointed or nominated by the Council, during informal contacts and meetings of your political

party and in all circumstances where you are active in your role as a councillor.

### *Relations with employees*

- ▶ You should respect the role of the Council's employees and treat them in a way that engenders mutual respect at all times.

### **Councillor/employee relations**

The degree of contact at the workplace between councillors and employees will vary, but the general principles are that:

- good relations depend on mutual courtesy and respect at all times. Employees should not be criticised by councillors at Council or committee or other public meetings. Standing Orders require councillors to consider excluding the press and public before any comment is made about the conduct or capability of an employee.
- first name terms are acceptable in informal discussions and meetings.
- a degree of formality such as the use of the formal title of 'councillor' should be observed at committee and sub-committee meetings when the public or third parties are present and at other meetings with third parties or the public.
- direct access by councillors to employees at all departmental levels is encouraged. Where, however, the Senior Officer feels that direct access is causing resource or other difficulties, he/she may ask for information to be channeled through them.

Social contact between councillors and employees is acceptable but should be distinguished from personal friendships or relationships which may give rise to an appearance of partiality or issues of security in respect of confidential information.

### **Undue pressure**

A councillor should not apply undue pressure on an employee either to do anything that he/she is not empowered to do or undertake work outside normal duties or normal hours. Particular care needs to be taken in connection with the use of Council property and services. Similarly, employees must neither seek nor use undue influence on individual councillors to make a decision in their favour, nor raise personal matters to do with their job nor make claims or allegations about other employees. The District Council has formal procedures for consultation grievance and discipline.

Special factors apply to the relations between officers and councillors of the administration (i.e. the majority or ruling group). It is accepted that:

- employees have duties to all councillors of the Council, irrespective of councillors' political allegiance.
- the Administration will wish to achieve its political objectives and its vision for the district and services and projects which the District Council provides.
- employees will provide advice to the Administration on how properly to achieve those objectives.

- Senior Officers have a responsibility for considering corporate or strategic issues and for ensuring that considered advice on them is submitted to councillors before decisions are taken.
- occasionally employees will need to express a view on a professional matter which may not support the view of the majority of employees or the Administration.
- in exceptional cases the Chief Executive or other Senior Officers will help the Administration to formulate a recommendation in a report or at a meeting which is not supported by the relevant Chief Officer and that the director will have the right to have his or her advice included in the report.
- particular rules will be needed to govern the entitlement of councillors to information in the possession of employees, the entitlement of other councillors to be told of factual information which is disclosed, and concerning the protection from disclosure of advice given by employees (see 'Access to Information').

Relations between senior officers and the Cabinet and Leader/Deputy Leader will be particularly close. The holder of a portfolio is the Cabinet's spokesperson for a particular service or area of work and will be expected to promote the Council's policies in that area. In practice informal meetings between senior officers and councillors (including "pre-agenda" meetings) will formulate recommendations which reflect the Cabinet's aspirations. Officers may provide briefing notes and or advice for Cabinet Members in respect of report or questions at committee and Council meetings. Chairmen will consider the timing of items on agenda or of meetings (although occasionally officers will have to report, regardless).

This relationship however:

- must not compromise the officer's duties to all members of the Council
- must not be so close as to give the appearance of partiality (whether political or professional) on the part of the employee
- must not undermine the confidentiality of any discussions with Senior Officers or between Managers and other councillors
- must not compromise employees professional responsibility to advise councillors (if necessary in a committee report) that a particular course of action should not be pursued
- cannot abrogate employee responsibility for action taken under delegated powers. Employees may wish to consult the Cabinet Member before proceeding under delegated powers. Councillors may not force an employee to exercise a delegated power in a particular way, an employee in such a case may prefer not to exercise a delegated power and to refer the matter to committee for decision.

Occasionally serious and persistent concerns will arise about performance, to the extent that long term damage may arise in relations between individual councillors or groups of councillors and a particular employee. There are formal processes for dealing with disciplinary and capability issues on the part of the employee and for dealing with



complaints by employees about councillor conduct. It will be important, however, to attempt to remedy any situation before formal processes are used. In particular, where the issues appears sufficiently serious:

- employees are entitled to be told by councillors or the Chief Executive of the complaint against them and to have an opportunity of answering it at the earliest opportunity (and certainly before any part of the informal steps outlined below or of any formal process has begun).
- employees may raise with their Head of Service or the Chief Executive, any concerns about public criticism of them by a councillor
- employees may ask the relevant councillor(s) to see them to discuss the complaint informally (whether the complaint is about the employee or the councillor)
- if the matter remains unresolved, the Chief Executive and Leader or other senior employee of the Group concerned will meet the relevant councillor and employee to discuss the complaint informally and to agree what action or steps should be taken.

### **Employees' advice to party groups**

Officers cannot be required to attend Group meetings (because of their terms and conditions) but attendance will usually cause no difficulty. This reflects

- recognition of Party Groups in law
- recognition by the courts that politics are an integral part of local government life, and that Groups will often wish to consider issues before they "go public"

It is agreed, however, that

- Employees may only give information and advice on Council business. It would be preferable for employees not to be present when Party business is discussed
- Advice and information given at Group meetings does not absolve employees from their obligation to provide advice to the District Council as such (at the relevant committee or sub-committee), in exceptional cases where employees object professionally to the action to be taken, it will be particularly important not to rely solely on advice given at Group meetings and to ensure that advice is given at committee (and preferably in writing)
- Councillors will accept that advice given to Group/Party meetings when non-councillors are present will be tailored to meet those circumstances, because only councillors are bound by the Code of Conduct (e.g. on keeping information confidential, not using it for personal advantage, and on avoiding conflicts of interest)
- Employees' advice given to Group meetings is confidential and will not be disclosed to another Group. Factual information, however, may be sought by and disclosed to other Groups, in accordance with councillors' rights of access to information.

## **Access to information**

Generally councillors have a right of access to information under the Freedom of Information Act 2000, and if they can demonstrate a “need to know”. Councillors have a right of access to information to enable them to carry out their duties as a councillor. For example:

- Members of a committee or sub-committee will be presumed to have a right of access to information relating to business on the agenda
- Other councillors generally have the same right in relation to business on the public part of the agenda, but need to demonstrate a right of access (for example, that they wish to attend on a ward matter or on behalf of a resident) in respect of categories of “exempt” information relating to employees, occupiers of council property, applicants for grants and other services, contract and employee relations negotiations, advice from Counsel, and criminal investigations
- Where councillors can demonstrate a right of access to those categories of exempt information, they would not have a right of access to the file itself without the express consent of a Senior Officer who may seek to provide the relevant information by extracting it from the file and providing a summary
- Councillors have no right to go on a “roving commission” amongst files in the hope they may pick up information (whether relating to items of business at a committee or generally) and it is accepted that employees may ask councillors to justify their right to have access.

Councillors must also bear in mind:

- the convention within the District Council that factual information (as opposed to advice) given to a councillor should always be copied for information to the relevant Cabinet Member
- that information disclosed must never be used other than for the purposes of the councillor's duties as a councillor, paragraph 26 of the former National Code of Local Government Conduct says

“26 As a councillor or a committee or sub-committee member, you necessarily acquire much information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. You should never disclose or use confidential information for the personal advantage of yourself or of anyone known to you or to the disadvantage or the discredit of the council or anyone else”.

## **Employee relationships with Councillors (extracted from the Employee code of conduct)**

Employees are responsible to the Council through its senior managers. For some a key task is to give advice to councillors and the Council. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity with individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

- Employees must be mindful that councillors have been elected by the community to represent their interests and therefore have a special role in the Council in determining policy, setting strategic priorities and monitoring work programmes. They must be treated at all times with courtesy and respect. Although it is desirable to meet councillors in a friendly, open and sincere fashion, undue familiarity can be counter-productive and can sometimes be regarded as impolite.
- First name terms are acceptable in informal discussions and meetings as well as in writing. A degree of formality such as the use of the formal title “Councillor” should be observed at committee and sub-committee meetings when the public or third parties are present and at other meetings with third parties or the public.

### **Protocol on members’ contacts with employees**

This protocol deals with contacts employees may receive from members and the response members may expect.

If members have queries or matters to report to employees, especially in relation to ward matters:

1. Members should contact the appropriate officer, usually at case officer or team leader level. Contact details of many employees may be found in the booklet ‘Now you are a councillor: An introduction to Chichester District Council 2015’ which was issued to members immediately after the May 2015 election. More up-to-date information on employees names and responsibilities can be found in the internal telephone directory which can be accessed from the home page of the intranet via ‘Your Services – Departments’. If a member is unsure who to contact, the Democratic Services team can advise.
2. In most cases email is the appropriate mode of contact. However, for urgent, immediate enquiries members should telephone, rather than e-mail.
3. Officers who are absent for a day or more during normal working periods must use their out of office giving alternative contact details.
4. If a member receives an out of office response, they should refer their enquiry to the contact provided in the out of office response.
5. Email enquiries from members should be acknowledged within 48 hours / 2 working days. In the acknowledgement, officers should indicate how long it will take to provide a substantive response. A member who does not receive a timely response from an officer, should escalate the matter to the next level of management.

### **Councillor support services**

The District Council provides a range of support services (e.g. stationery, typing and delivery of mail) to enable councillors more effectively to carry out their duties. These may only be used on Council business. In practice it can be very difficult to distinguish party political activity from work (for example) on behalf of constituents.

The District Council has adopted therefore a number of rules in an attempt to draw the

line between acceptable and unacceptable use of Council support services.

- Council notepaper (comprising the Council logo and standard letterhead) may be used for constituency correspondence, including (exceptionally) a standard letter addressed to up to 10 residents.
- A letter to a large number of residents may be typed by Council officers on plain notepaper but will be passed to the councillor concerned for copying and distribution.
- A reply to the organiser of a petition (and up to 10 petitioners) may be typed on Council notepaper, otherwise the previous provision applies.
- Photocopying or printing of Council notepaper for private use is not permitted.
- Council employees or resources may not be used at any time for party or political work of any kind, nor the printing and dispatch of circular letters.

### **Release of information to the media**

The provision of information by the District Council to the media (or directly to the public) is governed by the Local Government Act 1986 and the Code of Practice on Local Authority Publicity and in particular;

- should be objective, factual and informative
- must not be party political or designed to affect public support for a political party

The functions of a local authority are discharged by the Council corporately. It is therefore inappropriate for public resources to be used to promote the views of individual councillors.

In the interests of public accountability, however, it may be appropriate to give publicity to the views of individual councillors when they are representing the Council as a whole, for example, when the Chairman speaks or acts as the first citizen of the whole community, or when the chairman of a committee opens a new scheme or launches a policy approved by the District Council or by a committee on the Council's behalf.

For the same reasons the District Council may issue press releases reporting statements made by individual councillors such as a report of the discussion at meetings of the District Council or committees, or quotations of comments made by leading members of the Council in response to particular events.

- Press releases should be issued via the Public Relations Manager or Senior Officers. Copies of issued press releases are circulated internally to councillors, Senior Officers and Divisional Managers as appropriate.

### **Interpretation**

The purpose of these conventions is to describe clearly the respective roles of councillors and employees and their working relationships with political groups to help ensure that the District Council provides services effectively and efficiently and also acts in a way that is responsive to local needs. It is against the background of

these objectives that the conventions should be interpreted.

## 5.4 Petition Scheme

### 1. Petitions

- 1.1 The council welcomes petitions and recognises that petitions are one way in which people can let us 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 what we plan to do with the petition.

We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition, and it has at least 250 signatures. Where the number of signatures has not reached this level, an equality impact assessment will be undertaken to consider the feasibility of the threshold.

- 1.2 Paper petitions can be sent to:

Communications Team  
Chichester District Council  
East Pallant House  
1 East Pallant  
Chichester  
West Sussex  
PO19 1TY

- 1.3 Petitions can also be presented to a meeting of the council. These meetings take place six times per year. Dates and times can be found on our website [www.chichester.gov.uk](http://www.chichester.gov.uk).
- 1.4 If you would like to present your petition to the council, or would like your councillor or someone else to present it on your behalf, please contact the Democratic Services Manager on [democraticservices@chichester.gov.uk](mailto:democraticservices@chichester.gov.uk) or 01243 534684 at least 10 working days before the meeting and they will talk you through the process.

If your petition has received 1,000 signatures or more it will also be scheduled for a council, and if this is the case we will let you know whether this will happen at the same meeting or at a later meeting of the council.

- 1.5 We are also able to accept e-petitions, and a number of websites can provide this resource. Petition organisers should consider our guidelines below (Section 2 and 7) when choosing a provider.

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

- 2.1 Should you wish to submit a petition or e-petition, please inform the Communications team with the details of the petition and your contact details as petition organiser. This will enable the council to liaise with the petition organiser to discuss how any of the issues highlighted below could affect how and when their petition is responded to.

- 2.2 Petitions submitted to the council must include:

- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take.
- The name and address and signature of any person supporting the petition.

- Any e-petition should use the Communications team as their primary contact for the council. The email address: [publicrelations@chichester.gov.uk](mailto:publicrelations@chichester.gov.uk) must be used instead of specific council officers or council members.
- In lieu of a signature, an e-petition must provide some other form of unique identification. This could be through registration on the particular website, an email address or a social media profile.

2.3 Petitions should be accompanied by contact details, including a postal address or email address for the petition organiser. This is the person we will contact to explain how we will respond to the petition.

2.4 The minimum number of signatures on a petition should be 250 for it to be considered. If a petition with less than 250 signatures relating to a small area is received, it will be open to the ward Councillor(s) to represent the interests of the community.

There may be cases where 250 signatures is an unrealistic target (where the issue relates to a specific or minority group) and in those circumstances the council will undertake an Equalities Impact Assessment before determining a response.

2.5 A petition will not be accepted where:

- it is considered to be vexatious, abusive or otherwise inappropriate;
- it refers to a planning or licensing application;
- it refers to a decision for which there is an existing right of appeal; and/or
- it is a statutory petition (for example requesting a referendum on having an elected mayor).

2.6 The information in the petition must be submitted in good faith.

The petition will not be accepted if it includes:

- potentially libelous, false or defamatory statements;
- information that may be protected by an injunction or court order;
- material that is potentially confidential, commercially sensitive, or which may cause personal distress or loss to an individual, or individuals;
- any commercial endorsement, promotion of any product, service or publication;
- the names of individual officials of public bodies, unless they are part of the senior management of those organisations;
- the names of family members of elected representatives or officials of public bodies;
- the names of individuals, or information where they may be identified, in relation to criminal accusations; and / or
- language that is offensive, intemperate, or provocative. This not only includes swear words and insults, but any language to which people reading it could reasonably take offence.

2.7 In the period immediately before an election or referendum, we may need to deal with your petition differently. If this is the case, we will explain the reasons and discuss the revised timescale that will apply.

If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

To ensure the council understands the level of local support for a petition, it reserves the right to seek to verify each signature appended to a petition. This can be significant when establishing whether a petition has obtained the requisite number of signatures to trigger specific processes.

### **3. What will the council do when it receives my petition?**

- 3.1 An acknowledgement will be sent to the petition organiser within ten working days of receiving the petition. It will let them know [if the petition is valid] what we plan to do with the petition and when they can expect to hear from us again.
- 3.2 If we can do what the petition asks for, our acknowledgement may confirm that we have taken the action requested and the petition will be closed.

If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place.

If the petition needs more investigation, we will tell you the steps that we plan to take. If it is not possible for us to do what is requested within the petition, we will provide reasons for this.

#### **3.3 The council reserves the right to reject:**

- petitions that are similar to, and / or overlap with, and existing petition that has been considered in the past 12 months;
- petitions that ask for things outside the remit or powers of the council;
- statements that amount to advertisements; and
- issues for which petitions are not the appropriate channel (for example, correspondence about a personal issue).

#### **3.4 To ensure that people know what we are doing in response to the petitions we receive, the details of all petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish correspondence relating to the petition (all personal details will be removed).**

### **4. How will the council respond to petitions?**

#### **4.1 Our response to a petition will depend on what the petition asks for and how many people have signed it. This may include one or more of the following:**

- taking the action requested in the petition;
- considering the petition at a council meeting;
- holding an inquiry 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 council's Overview and Scrutiny Committee (a committee of councillors who are responsible for scrutinising the work of the council, and has the power to hold the council's decision makers to account;
- calling a referendum; and/or
- writing to the petition organiser setting out our views about the request in the petition



- 4.2 In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition.
- 4.3 If your petition is about something over which the council has no direct control (for example, the local railway or hospital), we will make representations on behalf of the community to the relevant body. The council works with a large number of local partners and, where possible, will work with these partners to respond to your petition.

If we are not able to do this for any reason (for example, if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you. You can find more information on the services for which the council is responsible at [www.chichester.gov.uk](http://www.chichester.gov.uk)

- 4.4 If your petition is about something that a different authority or agency is responsible for, we will give consideration to what the best method is for responding to it. This may mean forwarding the petition to the relevant council, but could also involve other steps. We will always notify the petition organiser of the action we have taken.

## **5. Full council debates**

- 5.1 If a petition contains more than 1,000 signatures, it will be debated by Full Council (unless it is a petition asking for other specific action, such as calling a senior council officer to give evidence at a public meeting – see below). This means that the issue raised in the petition will be discussed at a meeting that all councillors can attend. The council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.

If you would like to present your petition at the meeting, or would like your councillor to present it on your behalf, please contact the Democratic Services Manager at least 13 working days before the meeting and an officer will talk you through the process. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors. The debate of a petition at a council meeting should, subject to the discretion of the Chairman, not last more than 30 minutes. The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee.

Where the issue is one on which the council executive are required to make the final decision, the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## **6. Officer evidence**

- 6.1 A petition may ask for a senior council officer to give evidence at a public meeting about something the officer is responsible for as part of their job, provided it was not privileged legal advice. 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.

- 6.2 If a petition contains at least 500 signatures, the relevant senior officer will give evidence at a public meeting of the council's Overview and Scrutiny Committee.

A list of the senior staff that can be called to give evidence is detailed below:

- Chief Executive – Diane Shepherd
- Director of Planning and Environment – Andrew Frost
- Director of Growth and Place – Jane Hotchkiss
- Director of Housing and Communities – Louise Rudziak
- Director of Corporate Services – John Ward

Senior staff may call upon a substitute or other senior officer depending upon the circumstances of the case.

The Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition (for instance, if the named officer has changed job roles). The committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting, but the petition organiser will be able to suggest questions to the Chair by contacting the Democratic Services Manager on [democraticservices@chichester.gov.uk](mailto:democraticservices@chichester.gov.uk) or 01243 534684 up to three working days before the meeting.

## 7. **E-petitions**

- 7.1 The council will consider e-petitions that have been facilitated online and conform to the guidance set out in this scheme. Please refer to Section 2.
- 7.2 The petition organiser will need to decide how long to keep the petition open for signatures. They can choose and publicise a timeframe with the relevant deadline — some websites may use a certain number of signatures as a target. We would recommend that an e-petition should remain live for no longer than three months to demonstrate the current level of local opinion. However, where a petition organiser sets a longer timeframe (or a target number of signatures that takes the petition over a three month period), we will complete an equality impact assessment to determine whether the petition is valid.
- 7.3 When an e-petition has closed for signature, it should be submitted to the Communications team. In the same way as a paper petition, the petition organiser will receive an acknowledgement within 10 working days. A petitions acknowledgement and response will be emailed to the petitions organiser.

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

- 7.4 When you 'sign' an e-petition, you will — in some instances — need to register with the relevant provider / website. This usually involves registering your name, postal address or email address. You must ensure that by signing an e-petition your name is clearly identifiable — this will ensure your validity as a signatory.

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

- 8.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the council's Overview and Scrutiny Committee review the steps that the council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review, if the petition organiser gives a short explanation of

the reasons why the council's response is not considered to be adequate.

- 8.2 The committee will normally consider the request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting.

Should the committee determine that the petition has not been dealt with adequately, it may use any of its powers to deal with the matter. These powers include: instigating an investigation; making recommendations to the council executive; or, arranging for the matter to be considered at a meeting of Full Council.

- 8.3 Once the appeal 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 our website. There is no further right of appeal through the council.

## 5.6 Public Question Time

**Public Question Time** is a well-established opportunity to come along to meetings and ask questions of your elected representatives on issues of local concern. It was introduced with the aim of increasing public involvement in district council affairs as well as giving members of the public the opportunity to have a greater understanding of the way in which the council conducts its business.

### How does this work?

A total period of 15 minutes is set aside at the start of meetings of the council's main committees which are open to the public (other than meetings of the Planning Committee).

Questions can be asked by residents or non-domestic ratepayers of the district. The questions must be in writing or by email and should be kept as concise as possible. Those which take the form of a long address might not be accepted. When sending a question you must include the name and address of the questioner, a contact telephone number and date. Questions should be sent to the Democratic Services team – the contact details and address can be found at the end of this leaflet.

Each questioner will be allowed a maximum of three minutes to ask a question. When asking their question they will be asked to read out only the elements which are a question to enable the meeting to run effectively, and not to read out background information. The whole question will however have been made available to members prior to the meeting and will also be reproduced in full in the minutes of the meeting.

At the Chairman's absolute discretion a supplementary question may be permitted. Any supplementary question must relate to the original question. The Chairman may also extend the limit for each question or the total time for public questions.

Questions will be dealt with on a first come, first served basis and will be accepted up to noon on the second working day before the meeting (for example Cabinet meetings on a Tuesday require questions submitted by noon on Friday before, assuming no bank holidays). In the event that neither the questioner nor his or her representative is present at the meeting, the question will not be asked but the questioner will receive a written response within ten working days from the day of the meeting.

The meetings at which questions can be asked are:

Full Council, Cabinet, Corporate Governance and Audit Committee, Alcohol and Entertainment Licensing Committee, General Licensing Committee, Overview and Scrutiny Committee and Standards Committee.

The list of meetings shown on the website to which public question time applies is not exhaustive as there are a number of meetings which are held on an *ad hoc* basis.

Sometimes meetings are cancelled or other venues used so it is worthwhile checking with Democratic Services before attending. Details of all forthcoming public meetings are published on the council's website.

## **Different public speaking arrangements for the Planning Committee**

The Planning Committee deals with planning applications and the planning process provides the opportunity for members of the public to comment on applications prior to them being considered by the Committee. A separate Planning Committee Public Speaking Code of Practice can be found [here](#) or by contacting Democratic Services – the contact details and address can be found at the end of this leaflet.

## **Other points you need to know**

As with any system there are some exceptions. These are:

- Questions about planning applications being considered by the Planning Committee or Council will not be accepted.
- Public questions should not relate to matters personal to the questioner, his or her spouse, partner or relative.
- The facility to ask a question is not available when the committee acts like a court of law eg in considering licensing matters as those matters are addressed through individual legal processes and through the Courts.
- Questions will not be taken on matters within the various categories of exempt information shown in Schedule 12A to the Local Government Act 1972 (details of which are set out below):
  - (a) Information relating to any individual
  - (b) Information which is likely to reveal the identity of an individual
  - (c) Information relating to the financial or business affairs of any particular person (including the authority holding that information)
  - (d) 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
  - (e) Information in respect of which a claim of legal professional privilege could be maintained in legal proceedings
  - (f) Information which reveals that the authority proposes:
    - to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
    - to make an order or direction under any enactment.
  - (g) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

## **Contact Information**

Democratic Services, Chichester District Council  
East Pallant House  
1 East Pallant  
Chichester  
West Sussex  
PO19 1TY  
Tel: 01243 534655  
Email: [democraticservices@chichester.gov.uk](mailto:democraticservices@chichester.gov.uk)



**Public Question Time**

Name & Address of Questioner:

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Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

I wish to ask the following question of the Chairman of the meeting of the

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to be held on \_\_\_\_\_

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Signed \_\_\_\_\_  
Date \_\_\_\_\_

## **5.7 Protocol on Members' Task and Finish Groups**

1. A Committee of the Council, including the Cabinet, the Overview & Scrutiny Committee and the Corporate Governance & Audit Committee, may set up a Task & Finish Group to work through a particular issue and report back to its parent committee.

In addition, an individual Cabinet Member, or the Business Routeing Panel, may convene a Task & Finish Group to consider and seek agreement on issues on which members have expressed interest or dissent.

2. The term "Task & Finish Group" will be used rather than "working party", or any other term.
3. A Task & Finish Group is not a Committee or Sub-Committee under the Local Government Act 1972. Therefore the public and press do not have a right to attend or see the agenda papers, although the Task & Finish Group may invite outside parties to contribute.
4. The Task & Finish Group should consist of at least 3 Members selected by the relevant parent committee, Cabinet Member or Business Routeing Panel, one of whom will be appointed the Chairman of the Group by the Committee or convenor of the Group.
5. When it is established, the Task & Finish Group must be set clear Terms of Reference by the parent Committee or convenor. (The terms of reference can be altered by the Committee or convenor during the lifetime of the Task & Finish Group).
6. The Task & Finish Group should have a finite life. (This should usually take around two months and normally no more than six months).
7. The Task & Finish Group Chairman will co-ordinate the activity of the Group within the Terms of Reference. There should be a formal Agenda for each meeting drawn up by the chairman, so that members of the group are clear about the purpose of the meeting. This should be sent to members no later than one week before the meeting date.
8. Agendas and notes of the meetings will normally only be circulated to members of the Task & Finish Group.
9. A Lead Officer should be appointed for the Task & Finish Group to give advice and assistance. The Lead Officer will be appointed following discussions between the Task & Finish Group Chairman and the relevant Senior Officer.

It should normally be the case, however, that the Members on the Group will support themselves. This will be especially the case for a Task & Finish Group which has not been set up by a Committee.

10. The Business Routeing Panel must be informed whenever a Task & Finish Group is established. The Panel will control the overall number of such groups, and ensure their purpose is clear and necessary, and their reporting back

arrangements are appropriate.

Members' requests to set up a Task & Finish Group via the BRP may be considered by the Members of the BRP between its meetings. This should normally be done electronically.

11. Progress Reports should be made to the parent Committee or convenor. These may be oral or in writing.
12. The Senior Leadership Team will consider and comment on the recommendations proposed by the Task & Finish Group.
13. A final report must be presented to the parent Committee or convenor, listing the recommendations.

### **Terms of reference for Members' Task and Finish Groups**

The Terms of Reference and objectives etc. of Members' Task & Finish Groups will vary depending on the subject being addressed. However, below is a suggested list of areas which the parent committee, or convenor, may wish to address when setting up the Task & Finish Group;

<b><i>Review Topic</i></b>	
<b><i>Membership (and Chairman)</i></b>	
<b><i>Aims &amp; Objectives (Outcomes to be achieved)</i></b>	
<b><i>Scope</i></b>	
<b><i>Review Period</i></b>	
<b><i>Officer support</i></b>	
<b><i>Review completion date</i></b>	
<b><i>Frequency of Meetings</i></b>	
<b><i>Training Requirements</i></b>	



## **PART 6 – MEMBERS ALLOWANCES SCHEME**

### **CHICHESTER DISTRICT COUNCIL REVISED SCHEME OF MEMBERS' ALLOWANCES (2023)**

Chichester District Council ("the Council"), in exercise of the powers conferred by Section 18 of the Local Government and Housing Act 1989, Section 100 of the Local Government Act 2000 and The Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended), hereby makes the following scheme:

#### **Commencement**

1. This Scheme shall have effect from 1st April 2023 and for subsequent years.

#### **Definitions**

2. In this scheme,

"Councillor" means a Councillor elected to the Council;

"year" means the 12 months ending with 31st March.

#### **Basic Allowance**

3. (1) Subject to the provisions of this Scheme, for each year a basic allowance as set out in Appendix 1 shall be paid to each Councillor.
- (2) Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, his entitlement shall be to payment of such part of the Basic Allowance as bears to the whole the same proportion as the number of days during which his term of office as Councillor subsists bears to the number of days in that year.

#### **Special Responsibility Allowances**

4. (1) For each year a Special Responsibility Allowance shall be paid to those Councillors who hold the special responsibilities in relation to the Council that are specified in Appendix 1.
- (2) Where the Councillors are divided into different political groups and a majority belongs to one of those groups, a Special Responsibility Allowance shall be paid to the leader of the largest minority group, or if the largest minority groups are of equal size then, in the absence of an agreement between them as to who the Official Leader of the Opposition will be, then the allowance shall be shared equally between them.

- (3) Subject to the provisions of this Scheme, the amount of each such allowance shall be the amount specified against that special responsibility in Appendix 1.
- (4) Where a Councillor does not have throughout the whole of a year any such special responsibilities as entitle him to a Special Responsibility Allowance, his entitlement shall be to payment of such part of the special responsibility allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.

### **Dependants' Carers' Allowance**

5. A Councillor shall be entitled to be paid a Dependants' Carers' Allowance at the rate specified in Appendix 1 to enable him to provide for the care of children, disabled or sick relatives whilst the Councillor is engaged on the duties set out in Appendix 3. Such an allowance shall not be paid in respect of carers who are parents, spouses, partners or members of the same household as the Councillor.

### **Travelling and Subsistence Allowances**

6. A Member shall be entitled to be paid Travelling and Subsistence Allowances at the rates specified in Appendix 2 in respect of travelling and subsistence undertaken in connection with or relating to the duties set out in Appendix 3.

### **Disqualification etc. of a Member**

7. Where an allowance has already been made in respect of any period during which the Member concerned
  - (a) ceases to be a Member; or
  - (b) is in any other way not entitled to receive an allowance in respect of that period

the Council may require that such part of the allowance as relates to any such period be repaid to the Council.

### **Election to forgo allowances**

8. A Member may by notice in writing given to the Chief Executive elect to forego all or any part of his entitlement to an allowance under this scheme.

### **Claims and payments**

9.
  - (1) Payments of Basic and Special Responsibility Allowances shall be payable monthly in arrears through the Council's payroll.
  - (2) Claims for Travelling and Subsistence Allowances and Dependants' Carers' Allowance shall be submitted to the Council within two months

of the expenditure being incurred. Claims will not be considered beyond this time limit unless there are extenuating circumstances.

### **Dual Membership**

10. Where a member is also a member of another authority (as defined in Regulation 3), that member may not receive allowances from more than one authority in respect of the same duties.

### **Review and Backdating of Reassessments**

11.
  - (1) The levels of the Basic Allowance and Special Responsibility Allowance specified in this scheme shall continue until they are next reviewed.
  - (2) The provisions of this scheme shall be reviewed by the Independent Remuneration Panel within four years.
12. Reassessments of the allowances in future years shall not be automatically backdated to 1st April in these years unless there are specific reasons to the contrary.

## APPENDIX 1 TO THE SCHEME

### 1. **Basic allowance** (Paragraph 3)

The amount of Basic Allowance payable to each Councillor shall be £5,460. per year.

### 2. **Special Responsibility Allowances** (Paragraph 4)

The amounts of Special Responsibility Allowances and the special responsibilities for which they shall be payable shall be as follows:-

	£ per year
Chairman of the Council	5,000
Leader of the Council	15,500
Deputy Leader	8,150
Leader of the Opposition	4,750
Member of the Cabinet	7,400
Chairman of the Planning Committee	6,350
Chairman of the Overview & Scrutiny Committee	5,050
Chairman of the Corporate Governance & Audit Committee	4,800
Chairman of the Alcohol & Entertainments and General Licensing Committees	4,300
Chairman of the Standards Committee	500
For each group leader (a group is two or more members)	100
	(per opposition member)
Co-opted members of panels, members of the Independent Remuneration Panel and Independent Persons	60
	(per meeting)
Independent Persons	750
	(payment per annum)

Notes : (a) Councillors are entitled to receive only one Special Responsibility Allowance at the same time.

(b) If the Chairman of the Council or a committee is absent for a continuous period of more than 2 months his SRA will be paid instead to the Vice Chairman if he takes on the responsibilities during that period of absence.

### 3. **Dependants' Carers' Allowance** (Paragraph 5)

The amount of the Dependants' Carers' Allowance shall be £18.20 per hour and the Child Care Allowance shall be £10 per hour.

## APPENDIX 2 TO THE SCHEME

The rates under the Scheme shall be as follows:-

### 1. Travelling

- |       |  |   |
|-------|--|---|
| (i)   | Travel to seminars/conferences and training courses held outside of the district                         | Cost of standard class rail fare; by own car only in exceptional circumstances at 34p per mile. |
| (ii)  | Travel to meetings and other events by own car (up to maximum of 8,500 miles per annum)                  | 46.9p per mile, plus 5p per mile for cars with CO <sub>2</sub> emissions of less than 135g/km   |
| (iii) | Car parking – at cost  |   |
|       | Travel by train - standard class rail fare   |   |
|       | Taxi - if urgent and necessary - at cost   |   |
|       | Bus - at cost  |   |
|       | Motorcycle - 24p per mile  |   |
|       | Cycles - 20p per mile  |   |
|       | Member drives other member(s) or officer(s) on official Council duties – extra 5p per mile per passenger |   |

### 2. Subsistence

- |       |  |  |
|-------|--|--|
| (i)   | Breakfast                                      | £9.90 (where travel starts before 7am and absence is less than 24 hours)   |
| (ii)  | Lunch  | £13.57 (for necessary absences of several hours spanning the normal lunch period leaving home/ office before 11am and returning after 3pm) |
| (iii) | Tea  | £5.40 (if unable to return to home/office by 6.30pm)   |
| (iv)  | Evening Meal                                   | £16.41 (if unable to return to home/office by 8.30pm)  |
| (v)   | Out of Pocket Expenses for residential courses | £7.67 per night.   |

### 3. Further Conditions

- a) To claim travel and/or subsistence allowance valid receipts or other evidence of the expenditure must be produced.
- b) If the expenditure on subsistence is less than the allowance, only the lesser figure will be reimbursed. No claim will be paid if the meal was provided free by the Council or another body.
- c) Allowances for tea and evening meal cannot be claimed for the same day.
- d) If an overnight stay is necessary, and not included in the course fee, normally only bed and breakfast and evening meal are reimbursed.(at a top rate of up to £25.47 for an evening meal)

4. The above rates for Travelling and Subsistence shall be varied in accordance with the rates approved from time to time by Chichester District Council for its staff.

## **APPENDIX 3 TO THE SCHEME**

### **1. DUTIES SPECIFIED IN THE REGULATIONS [Regulation 8(1)(a)-(f)]**

- (a) Attendance at a meeting of the Council or of any Committee or Sub-Committee of the Council, or of any other body to which the Council makes appointments or nominations, or of any committee or sub-committee of such a body.
- (b) Attendance at any other meeting, the holding of which is authorised by the Council, or a Committee or Sub-Committee of the Council, or a Joint Committee of the Council and one or more local authorities or a Sub-Committee of such a Joint Committee, provided that where the Council is divided into two or more political groups it is a meeting to which Members of at least two such groups have been invited.
- (c) Attendance at a meeting of any association of authorities of which the Council is a member.
- (d) Attendance at meetings of the Cabinet or of any Panels or Forums appointed by the Cabinet.
- (e) Duties in pursuance of any standing order requiring a Member or Members to be present while tender documents are opened.
- (f) Duties in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises.

### **2. DUTIES APPROVED BY THE COUNCIL [Regulation 8(1) (h)]**

- 1. Liaison meetings with:-
  - (1) Local Chambers of Commerce
  - (2) Local Branches of the National Farmers' Union
  - (3) Local Amenity Societies and
  - (4) Annual Liaison Meeting with Parish Councils
- 2. Attendance of Councillors to observe the proceedings at meetings of Committees and Panels of which they are not Members.
- 3. Site meetings of the Planning Committee but excluding attendance by local representatives unless specifically approved. For this purpose, site meetings are those meetings the holding of which has been previously authorised by the Committee or other formally constituted Panel of Councillors in order to assist

it in formulating a decision or recommendation on any matter formally before it for consideration; and that authorisation expressly designated the meeting as an approved duty for the purpose of payment of Councillors' allowances.

4. Meetings, visits or other arrangements made on an ad hoc basis between meetings of the relevant bodies if approval is given in accordance with the power delegated to the Head of Finance and Governance Services.
5. In-house training seminars or external training events if approval is given in accordance with the power delegated to the Head of Finance and Governance Services.
6. Annual visit to the coast to assess coastal management priorities and/or the Annual Property tour and other excursions, tours and site visits arranged for members in the course of official District Council duties.
7. Such activities as the Chairman of the Council, the Vice-Chairman of the Council, a Cabinet Member or the chairman of a committee considers necessary for the effective performance of his/her duties.
8. Attendance at briefings for Chairmen and Vice-Chairmen of particular meetings.
9. Training and educational conferences where authorised by the Head of Finance and Governance Services in accordance with delegated powers.
10. Attendance at Parish Council meetings (including committees of the parish council) within the Member's ward where the District Councillor is not already a Member of that Parish Council.
11. Attendance at meetings of the South Downs National Park Authority's Planning Committee by members whose wards are partly or wholly within the National Park.
12. One visit by the local ward member to the site of a planning application to be considered by the Planning Committee for the purpose of preparing comments for the Committee.
13. Meetings with officers at the Council's offices to discuss business relating to the Member's ward. [Note: Apart from 10. and 12. above, travelling expenses are not payable for duties that take place within the Member's ward.]
14. Attendance at political party group meetings held specifically for the purpose of, or in connection with, the discharge of the functions of the Council, subject to:  
(a) the approval not extending to more than twelve political group meetings a year; and  
(b) each Group Secretary being required to certify that any such group meeting has been principally concerned with District Council business, and to provide records of attendance to the Democratic Services Manager.



## **PART 7 – MANAGEMENT STRUCTURE**

### **Outline of Main Services**

The Senior Leadership Team (SLT) consists of the Chief Executive, the Executive Director/Deputy to the Chief Executive and five Directors.

The day to day operational delivery of services is managed by the Divisional Managers.

The Directors are responsible for the following service areas:

### **Director of Corporate Services**

Financial Services - accountancy services, treasury management, insurance and risk management, audit, corporate health and safety and business continuity management.

Legal and Democratic Services - legal services, democratic services, data protection and freedom of information, contract services and procurement.

Business Support – post room, human resources, ICT, electoral services, business improvement, corporate policy and performance management.

### **Director of Residents' Services**

Revenues and Benefits – billing and collection of council tax and business rates, housing benefits.

Customer Services and Land Charges – reception services and the customer services centre and land charges.

Careline – telecare support to vulnerable people.

Chichester Contract Services – waste and recycling, vehicle workshops and MOTs, parks and open spaces, street cleansing and cemeteries.

### **Director of Growth and Place**

Culture – leisure and sports development, The Novium Museum and tourist information centre, cultural grants and the Visitor Economy.

Place – car parks, toilets, liaison with Chichester BID, the Chichester Vision, Manhood Peninsula Partnership and city and town co-ordination.

Promotion and Events – licensing, markets and farmers' market, events, public relations, marketing, sponsorship and advertising, consultation and corporate information.

Growth – estates, economic development and building services.

Regeneration – Southern Gateway, investment opportunities including Chichester Vision investment projects.

## **Director of Housing and Communities**

Housing – housing strategy, housing options including housing register and homelessness, private sector housing and housing enabling.

Communities – community engagement, family intervention and safeguarding, partnerships, community safety and CCTV, Choose Work scheme, grants and concessions, gypsies and travelers.

Health Protection and Wellbeing – health protection, public health including wellbeing and emergency planning.

## **Director of Planning and the Environment**

Development management – planning administration, planning enforcement and tree protection.

Planning policy – conservation and design, infrastructure planning, Local Plan and neighbourhood planning.

Environmental Protection – environmental strategy, coastal protection and foreshores, air quality, contaminated land, noise pollution and environmental complaint, building control and dog control.