

## **Lewes District Council Constitution**

### (published: Wednesday, 03 April 2024)

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### PART 1

### SUMMARY AND EXPLANATION

#### The Council's Constitution

Lewes District Council has agreed a new constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 17 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

#### What's in the Constitution?

Article 1 of the Constitution commits the Council to the provision of community leadership, environmental and financial stewardship, transparent and efficient decision-making, and to improvement, quality and equality in the delivery of services. Articles 2 - 17 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Full Council (Article 4).
- Chairing the Council (Article 5).
- Policy and Performance Advisory Committee (scrutiny of decisions) (Article 6).
- The Executive i.e. the Cabinet (Article 7).
- Regulatory and other committees (Article 8).
- The Audit and Governance Committee (Article 9).
- Area Committees and Forums (Article 10).
- Joint Arrangements (Article 11).
- Officers (Article 12).
- Decision Making (Article 13).
- Finance, contracts and legal matters (Article 14).

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- Review and revision of the Constitution (Article 15).
- Suspension, interpretation and publication of the Constitution (Article 16).
- Position of Leader (Article 17)

#### How the Council Operates

The Council is composed of 41 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 or did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Audit and Governance Committee advises them and arranges to train them on the code of conduct.

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 appoints the members of the Policy and Performance Advisory Committee and all other council committees – for example, the Audit and Governance Committee and the Planning Applications Committee. The Council considers recommendations made to it by the Cabinet and the Policy and Performance Advisory Committee and its Panels as to any changes in policy which might need to be made. Council meetings provide an opportunity for citizens and councillors to ask questions and raise issues of broad public interest. For a fuller description of the work of the Council, please see Article 4.

#### How Decisions are Made

The Leader is responsible for discharging most day-to-day decisions, although the Leader may decide to delegate his/her powers to the Cabinet as a whole, to another individual member of the Cabinet, to a sub-committee of the Cabinet or to an officer of the authority. The Executive is made up of the Leader, who is appointed by the full Council, together with a Cabinet of between two and nine other councillors who are appointed by the Leader. The Leader determines the numbers of councillors (subject to a minimum of three and a maximum of ten forming the Cabinet).

When key decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated. If these key decisions are to be discussed with council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal, confidential or, perhaps, exempt matters are being discussed. (For definitions of what is meant by "confidential" and "exempt" matters, please see Part 4 – Access to Information). 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 Function**

The Policy and Performance Advisory Committee supports and scrutinises the work of the Cabinet and the Council as a whole. It allows councillors outside the Cabinet and citizens to have a greater say in Council matters by investigating matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Policy and Performance Advisory Committee also monitors the decisions of the Cabinet and can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables it to consider whether the decision is appropriate. The Committee may recommend that the Cabinet reconsiders the decision. The Committee may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy. The Policy and Performance Advisory Committee will set up Panels to undertake much of its work.

#### The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the council.

#### Citizens' Rights

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

Where members of the public use specific council services, for example as a council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are registered for such elections,
- 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, perhaps, exempt matters are being discussed;

- petition to request a referendum on a mayoral form of Executive;
- participate in the Council's public question time and contribute to investigations by the Policy and Performance Advisory Committee when invited to do so;
- speak on planning applications at the Planning Applications Committee;
- find out, from the Cabinet's forward plan, what key decisions are to be discussed by the Cabinet or decided by the Cabinet, Lead councillors, or officers, and when;
- attend meetings of the Cabinet except where, for example, personal, confidential or, perhaps exempt matters are being discussed;
- see reports and background papers, and any record of decisions made by the Council, the Cabinet, Cabinet Members, officers and other committees of the council
- complain to the Council if the Council has failed to do something it should have done, done something badly or treated someone unfairly or discourteously;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the External Auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen to inspect council agendas and reports and to attend meetings that are open to the public, please contact:

Committee Services Lewes District Council, Southover House Southover Road, Lewes 01273 471600 <u>committees@lewes-eastbourne.gov.uk</u> or <u>visit our website at www.lewes.gov.uk</u>

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## PART 2

## ARTICLES OF THE CONSTITUTION

## Article 1 – The Constitution

#### **References:**

Section 37, Local Government Act 2000 Chapter 10, DETR Guidance, The Local Government Act 2000 (Constitutions) (England) Direction 2000

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

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

#### 1.2 The Constitution

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

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

The purpose of the Constitution is to:

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

#### 1.4 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

## Article 2 – Members of The Council

#### **References:**

Part I, Part VA and Section 79, Local Government Act 1972 Chapter 2, DETR Guidance Section 18, Local Government and Housing Act 1989 and regulations thereunder Section 7, Superannuation Act 1972 and regulations thereunder

#### 2.1 Composition and Eligibility

#### a) Composition.

The Council will comprise 41 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 Commission and approved by the Secretary of State.

#### b) Eligibility.

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

#### 2.2 Election and Terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years beginning from 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

#### 2.3 Roles and Functions of All Councillors

#### a) Key roles.

All councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- (iii) effectively represent the interests of their ward and the interests of individual constituents;
- (iv) respond to constituents' enquiries and representations fairly and impartially;
- (v) balance different interests identified within their ward and represent the ward as a whole;
- (vi) be involved in decision-making;
- (vii) be available to represent the Council on other bodies; and
- (viii) maintain the highest standards of conduct and ethics.

#### (b) **Rights and Duties**

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

#### 2.4 Conduct

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

#### 2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 7 of this Constitution.

## Article 3 – Citizens and The Council

#### 3.1 Citizens' Rights

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

#### a) Voting and petitions.

Local government electors have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

#### b) Information.

Citizens have the right to:

- 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;
- (iii) find out from the forward plan what key decisions will be taken by the Cabinet, Cabinet Member, or officers, and when;
- (iv) see reports and background papers, and any records of decisions made by the Council, Cabinet, Cabinet Member, or key decisions made by officers;
- (v) inspect the Council's accounts and make their views known to the District Auditor.

#### c) Participation.

Citizens have the right to put questions to councillors at meetings of the Council and to contribute to investigations by the Policy and Performance Advisory Committee when invited to do so.

#### d) Complaints.

Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme;
- (ii) the Ombudsman after using the Council's own complaints scheme;
- (iii) the Monitoring Officer about a breach of the Councillors' Code of Conduct.

#### 3.2 Citizens' Responsibilities

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

## Article 4 – The Full Council<sup>i</sup>

#### 4.1 Introduction

The Full Council is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council's Budget and Council Tax, and approving a number of key plans and strategies, which together form the Policy Framework (listed below). The full Council must also by law take decisions on a number of specific matters.

The Full Council provides a central forum for debate and gives the opportunity for Councillors and members of the public to ask questions about the Council or matters affecting the Council.

#### 4.2 The Council

A meeting of the Council is one in which all 41 members are entitled to attend to speak and vote. The Council is responsible for the determination of the Budget and Policy Framework of the Council and for all of the functions which are not the responsibility of the Executive. The Council is responsible for regulatory and other non-Executive functions, for example planning and licensing, and has a role in holding the Executive to account.

It will carry out some functions itself but others will be delegated to Committees or named officers.

#### 4.3 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:
  - (i) those required by law to be adopted by the Council:
    - Council Plan;
    - Sustainable Community Strategy;
    - Crime Reduction Strategy;
    - Plans and strategies which together comprise the Development Plan;
    - Pay Policy Statement;
  - (ii) The following plans and strategies should be adopted by the Council as part of the Policy Framework:
    - Food Law Enforcement Service Plan;
    - The plan and strategy which comprise the Housing Investment Programme;
    - Local Agenda 21 Strategy;
  - (iii) other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice:

- E-government strategy;
- Policy for use of powers given by the Regulation of Investigatory Powers Act 2000.
- (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 and supplementary estimates.
- (c) Housing Land Transfer. Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

#### 4.4 Functions of the Full Council

Only the Council will exercise the following functions:

- (a) adopting and changing any part of the Constitution unless stated otherwise;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of the Constitution, making decisions about any matter where the Executive is proposing to make a decision which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- (d) appointing the Leader;
- (e) assessing the performance of the Cabinet and passing a resolution to remove the Leader from office;
- (f) approving the scheme of delegations, save for the delegation of executive functions;
- (g) agreeing and/or amending the terms of reference for the Policy and Performance Advisory Committee and other committees, deciding on their composition and making appointments to them;
- (h) appointing representatives to outside bodies unless the power of appointment has been delegated by the Council as part of the Executive arrangements;

- (i) adopting an allowances scheme for members under Article 2.5;
- (j) changing the name of the Council's area;
- (k) the conduct of elections, electoral registration, boundary/electoral reviews and associated matters, unless these have been delegated to officers under the Scheme of Delegation (see Part 9);
- (I) confirming the appointment of the Head of Paid Service; and designating the Chief Finance Officer and the Monitoring Officer.
- (m) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (n) to consider reports on lawfulness and maladministration;
- (o) adopting a Code of Conduct for members;
- (p) matters relating to local government pensions;
- (q) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- (r) all other matters which, by law, must be reserved to Council.

#### 4.5 Council Meetings

There are three types of Council meeting:

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

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

#### 4.6 Council Procedure

At Council meetings (including the Annual Council) the business of the Council will be conducted without any civic ceremony.

The Chair may wear the Chain of Office or badge at Council meetings if s/he so wishes.

The Chair will be seated at the start of the Council meeting and will call the proceedings to order.

There will be no prayers – but the Chair will ask for a period of silence before the meeting begins to enable councillors to focus their thoughts on the meeting or to pray silently.

The Chair will conduct Council meetings in accordance with the words and spirit of the Constitution; balancing the need to expedite business in an efficient and effective manner with the requirement to ensure full and adequate debate.

The Annual Council Meeting will be a business meeting without ceremony. At the start of the meeting, the Leader of the Council will give a brief speech thanking the outgoing Chair for his/her work on behalf of the Council. The outgoing Chair will give a brief speech in response. Once elected, the new Chair and Vice-Chair will then sign their declarations of acceptance of office without ceremony and the business of the Council will start immediately.

## Article 5 – Chairing the Council

#### **References:**

Sections 3, 5, 245; schedule 2, 12; Local Government Act 1972 Schedule 3, Local Government Act 2000 Chapters 2, 4 and 9, DETR Guidance

#### 5.1 The Role of the Chair of the Council

The Chair and Vice-Chair will be elected by the Council annually. The Chair and, in his/her absence, the Vice-Chair, will have the following responsibilities:

- 1. To Chair Council Meetings;
- 2. To focus his/her activities on the communities of the District (including communities of interest, as well as geographical ones) and, by focusing on the Council's priorities, strengthen links between those communities and the Council;
- 3. To act as an enabler and ambassador by arranging meetings between the Council and other parties for the benefit of the District.
- To celebrate those people or groups in the District who do extraordinary things to help others in the community, and to recognise those whose everyday lives are a challenge but who succeed in spite of their difficulties;
- 5. To celebrate successes of partners involved in major projects with the Council, particularly projects steered by the voluntary sector;
- 6. To encourage activities that recognise and support staff, (eg the annual garden party).

## **Article 6 – Policy and Performance Advisory Committee**

The Council will appoint a Policy and Performance Advisory Committee to undertake the dual roles of providing advisory input into key decisions to be made by the Cabinet and reviewing performance of services and projects against objectives.

In doing so, this Committee will discharge the overview and scrutiny functions conferred by section 21 of the Local Government Act 2000. In addition this Committee will undertake the role and discharge the functions conferred by sections 19 and 20 of the Police and Justice Act 2006, as amended by section 126 of the Local Government and Public Involvement in Health Act 2007, relating to scrutiny of the crime and disorder functions exercised by the Crime Reduction Partnership.

#### 6.1 General Principles

The general principles of the Policy and Performance Advisory Committee shall be that it will:

- (a) provide meaningful input into the Cabinet's consideration of key matters for decision;
- (b) provide critical friend challenge to the Cabinet and/or other external partner organisations;
- (c) reflect the voice and concerns of the public and its communities;
- (d) take the lead and own the performance review process on behalf of the public;
- (e) make an impact on the delivery of public services.

#### 6.2 General Role of Policy and Performance Advisory Committee

The Committee will:

- (a) provide commentary, advice and recommendations to the Cabinet on key matters due for decision;
- (b) hold the Cabinet and Cabinet Members to account by examining decisions about to be taken, taken but not yet implemented (call-in), and those that have been implemented (post-hoc review);
- (c) review general policies (especially those in the Policy Framework) and make suggestions for improving them;
- (d) contribute to continuous improvement in service delivery (through consideration of service delivery performance, participation in value for money reviews and investigation of budgets);

- (e) review and make recommendations relating to the discharge of nonexecutive (regulatory) functions;
- (f) consider and make recommendations to the Cabinet and/or Council (and relevant partner organisations) on any matters having a direct bearing on the economic, social or environmental well-being of the District's residents.

#### 6.3 Specific Functions of the Policy and Performance Advisory Committee

#### a) Policy Development

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 with the community on policy issues and possible options available to the Council;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) assist the Cabinet in providing direct consultative input into individual matters due for decision; and
- (v) consult (or question) Cabinet Members, Committee members, Chief Officers and/or Heads of Service about their views on issues and proposals affecting the area.

#### b) Performance Review

The Committee may:

- review and scrutinise the decisions made by the Cabinet, Cabinet Members, Committees, and/or 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 Cabinet Members and/or Committees, ward members, Chief Officers and/or Heads of Service about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) review and scrutinise the performance of other public bodies in the area or whose work impinges on the area and invite reports from them by requesting them to address the Committee and local people about their activities and performance; and
- (v) gather evidence from any person outside the Council (with their consent).

#### c) Other Key areas

The Committee:

- (i) may review and/or scrutinise the work of the Community Safety Partnership and the partners who comprise it insofar as their activities relate to their crime and disorder functions and make reports or recommendations to the Cabinet and/or Council and/or Community Safety partners as appropriate; and
- (ii) shall consider Councillor Calls for Action which are referred to it and which relate to local government and/or crime and disorder matters.

#### 6.4 Work Programme

The Committee shall:

(a) prepare an annual programme of work so as to ensure that the Committee's time is effectively and efficiently utilised.

The annual programme may include in its work programme a list of issues relating to crime and disorder matters providing these are first agreed with the relevant partners on the community safety partnership.

- (b) make in-year adjustments and additions to the annual programme in light of changing circumstances, subject to:
  - (i) there being no substantial addition to any resources to be called upon to undertake the programme;
  - (ii) the relevant Head of Service agreeing to any additional call upon staffing support; and
  - (iii) no additional costs arising which cannot be met from existing budgets unless approved by the virement procedures in the Financial Procedure Rules.
- (c) In determining the work programme the Committee shall have regard first and foremost to the following:
  - (i) Council priorities;
  - (ii) areas of improvement identified from the Council's corporate governance, performance management and/or data quality arrangements;
  - (iii) issues of public concern; and
  - (iv) issues of concern raised by Councillors.

#### 6.5 **Proceedings of Policy and Performance Advisory Committee**

(a) The Committee may establish "task-finish" panels to undertake any of its activities. It will determine their size and membership and approve their terms of reference.

The Committee may suggest the names of individuals that could become co-opted members of any panel and/or organisations that

might be invited to nominate representatives as possible co-opted members.

- (b) The Committee and Panels will conduct their proceedings in accordance with the Policy and Performance Advisory Procedure Rules set out in Part 4 of this Constitution.
- (c) When carrying out work relating to crime and disorder matters the Committee shall ensure the involvement of the police authority by
  - (i) inviting it to send a police authority member or the clerk or another officer of the police authority as an "expert adviser"; or
  - (ii) by co-opting a police authority member onto the Committee or Panel as appropriate;
- (d) The Committee may require information relating to local improvement targets from its relevant partner authorities in accordance with regulations made by the Secretary of State.
- (e) The Committee must consider community safety matters at least annually and may make reports or recommendations to the Cabinet, the Council or any Committee relating to the discharge of crime and disorder functions by:
  - (i) the District Council
  - (ii) the County Council
  - (iii) the Chief Officer of Police.

Any report or recommendation made by the Committee acting in this capacity must be circulated to the County Council and Chief Officer of Police, together with the Police Authority, Probation Committee, Health Authority and such other person or body as may be prescribed by order by the Secretary of State.

(f) The Committee may make reports and recommendations arising from its work to the Cabinet, the Council, any Committee and/or any relevant partner authority.

## Article 7 – The Executive i.e. the Cabinet

#### **References:**

Section 11 and schedule 1, paragraphs 1,2,3, Local Government Act 2000 Chapters 4, 14, and 15, DETR Guidance

#### 7.1 Role

The Leader will carry out all of the council's functions which are not the responsibility of any other part of the council, whether by law or under this Constitution. The Leader may, if he/she wishes, delegate any of his/her powers to the Cabinet.

#### 7.2 Form and Composition

The term "Cabinet" is used to describe the Leader together with such other councillors, appointed by the Leader to form the Cabinet.

#### 7.3 Leader

The Leader will be a councillor elected to the position of Leader by the Council. The Leader will hold office for a four year period unless and until:

- (a) he/she resigns from the office; or
- (b) he/she is no longer a councillor; or
- (c) he/she is removed from office by a resolution of the Council.

#### 7.4 Other Cabinet Members

Other Cabinet Members shall hold office unless and until:

- (a) they resign from office; or
- (b) they are no longer councillors; or
- (c) they are removed from office, either individually or collectively.

#### 7.5 **Proceedings of the Cabinet**

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

#### 7.6 Responsibility for Functions

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

## Article 8 – Regulatory and other committees

#### 8.1 Regulatory and Other Committees

The Council will appoint the committees set out in the left hand column of the table Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

## Article 9 – The Audit and Governance Committee

#### **References:**

Sections 101-102, Local Government Act 1972 Part 1, Chapter 7, Localism Act 2011

#### 9.1 Audit and Governance Committee

The Council meeting will establish an Audit and Governance Committee.

#### 9.2 Composition

#### a) Membership.

The Audit and Governance Committee will be composed of:

- seven councillors other than the Leader; (no more than one member of the Executive may be on the Committee).
- three co-opted non-voting town or parish members may participate in Standards, but not Audit, matters (if appointed).

#### b) Chairing the Committee.

The Chair shall be elected from a non-Cabinet member of the Minority Groups.

#### c) Independent Persons .

Independent Persons appointed by the Council in accordance with the Localism Act 2011 shall have the right to attend, in an advisory, non-voting capacity, meetings of the Committee and any Panel established by the Committee for the purposes of dealing with matters relating to any Code of Conduct allegation against a member or co-opted member of the authority or of a town or parish council in the Council's area.

#### 9.3 Role and Function

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

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members;
- (b) assisting the councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;

- (e) advising, and or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) providing Sub-Committees to consider matters relating to the Members' Code of Conduct.
- (i) the exercise of (a) to (g) above in relation to the town and parish councils wholly or mainly in its area and the members of those town and parish councils.
- (j) overview of the whistle blowing policy.

Other Roles:

 The Committee will consider any recommendations for constitution amendments from the Constitution Review Working Party as set out in Article 15, and make recommendations to Full Council as necessary.

## **Article 10 – Area Committees and Forums**

#### **10.1** Area Committees

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

The Council will consult with relevant town and parish councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees.

## **Article 11 – Joint Arrangements**

#### 11.1 Arrangements to Promote Well Being

The Council and/or the Cabinet 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.

#### **11.2** Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not executive functions in any of the participating authorities or advise the Council. Such arrangements may involve the appointment of a joint Committee with these other local authorities.
- (b) The 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 Cabinet 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) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:
  - the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;
  - the joint committee is between a county council and the district council and relates to functions of the Executive of the county council. In such cases, the Executive of the county council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area.

In both of these cases the political balance requirements do not apply to such appointments.

(e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

#### 11.3 Access to Information

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

#### **11.4** Delegation to and from Other Local Authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) The Cabinet may delegate executive functions to another local authority or the Executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

#### 11.5 Contracting Out

The Council (for those functions which are not executive functions) and the Cabinet (for executive functions) may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles

## Article 12 – Officers

#### **References:**

Chapters 8 and 9, DETR Guidance

#### 12.1 Management Structure

#### a) General.

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

#### b) Chief Officers.

The Council will engage persons for the following posts, who will be designated chief officers:

Post	Functions and areas of responsibility:
Chief Executive (and Head of Paid Service)	Provides overall strategic leadership of Lewes District Council in line with the policies and decisions of the elected Councillors.
	Provision of professional advice to all parties in the decision-making process.
	Responsibility for ensuring that the Council delivers quality services to Lewes's residents and visitors according to its statutory obligations and stated objectives and in line with Government legislation.
	Responsibility for legal, democratic services, local democracy and member services.
Director of Regeneration and Planning (and Deputy Chief Executive)	Responsibility for planning, assets and property, regeneration, energy and sustainability.
Director of Tourism and Enterprise	Responsibility for tourism, events, marketing, sports, seafront, cultural centre and the Eastbourne Devonshire Park facilities.
Director of Service Delivery	Responsibility for Service delivery, Customer First, EHL, Bereavement services, Waste services, strategic partnerships, voluntary sector, community engagement, town and parish liaison, community safety, community grants, youth strategy and equality.
Assistant Director of Human Resources and Transformation	Responsibility for human resources, organisational development, Chief Executive's Office, internal and external communications.

## c) Head of Paid Service, Monitoring Officer and Chief Financial Officer.

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Head of Democratic Services	Monitoring Officer
Director of Finance	Chief Finance Officer
Head of Finance	Deputy Chief Finance Officer

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

#### d) Structure.

The head of paid service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

This is set out at Part 8 of this Constitution.

#### 12.2 Functions of the Head of Paid Service

#### a) Discharge of functions by the Council.

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

#### b) Restrictions on posts.

The head of paid service may not be the Monitoring Officer but may hold the post of chief finance officer if a qualified accountant.

(References: Sections 4 and 5, Local Government and Housing Act 1989.)

#### **12.3** Functions of the Monitoring Officer

#### a) Maintaining the Constitution.

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.

#### b) Ensuring lawfulness and fairness of decision making.

After consulting with the head of paid service and chief finance officer, the Monitoring Officer will report to the full Council or to the 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. (NB. Any unlawfulness/maladministration relating to a regulatory committee would generate a report to full council).

#### c) Supporting the Audit and Governance Committee.

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Governance Committee.

#### d) Maintaining the Register of Members' Interests.

The Monitoring Officer will maintain a register of interests of Members and Co-opted Members of the Council and will ensure that it is available for public inspection and published on the Council's website. The Monitoring Officer will maintain a similar register of interests for Town and Parish Councils within the District including placing the register on that council's website if it has one. The Monitoring Officer will also maintain a register of pecuniary interests which are notified by a Member or Co-opted Member to the Monitoring Officer after arising and being declared at a meeting.

#### e) Conducting investigations.

The Monitoring Officer will conduct investigations into Code of Conduct matters and make reports or recommendations in respect of them to the Audit and Governance 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 and, wherever possible, within 10 working days.

## 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) Restrictions on posts.

The Monitoring Officer cannot be the chief finance officer or the head of paid service.

#### **References:**

Section 5, Local Government and Housing Act 1989 Sections 60, 64–66, Local Government Act 2000 Chapters 8 and 9, DETR Guidance

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#### 12.4 Functions of the Chief Finance Officer

#### a) Ensuring lawfulness and financial prudence of decision making.

After consulting with the head of paid service and the 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 the financial affairs of the Council.

#### c) Contributing to corporate management.

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

#### d) Providing advice.

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

#### e) Give financial information.

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

## 12.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer

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

#### 12.6 Conduct

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

#### 12.7 Employment

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

## Article 13 – Decision Making

#### 13.1 Responsibility for Decision Making

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

#### 13.2 Principles of Decision Making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) an explanation of what options were considered and the reasons for the decision will be included as part of the record of any decision.

#### 13.3 Types of Decision

#### **References:**

Chapter 7, DETR Guidance Regulations made under section 22, Local Government Act 2000

#### a) Decisions reserved to Full Council.

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

#### b) Key decisions.

- (i) A key decision means an executive decision which is likely:
  - to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
  - to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority

(ii) A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

#### 13.4 Decision Making by the Full Council

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

#### 13.5 Decision Making by the Cabinet

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

#### 13.6 Decision Making by the Policy and Performance Advisory Committee

The Policy and Performance Advisory Committee will follow the Policy and Performance Advisory Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### 13.7 Decision Making by Other Committees and Sub-Committees Established by the Council

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

#### **13.8 Decision Making by Council Bodies Acting as Tribunals**

The Council, a councillor or an officer acting as a tribunal or in a quasijudicial 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 14 – Finance, Contracts and Legal Matters

#### References:

Sections 135, 151, 223 & 234, Local Government Act 1972 Part VIII, Local Government Finance Act 1988

#### 14.1 Financial Management

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

#### 14.2 Contracts

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

## Article 15 - Review and Revision of the Constitution

#### **References:**

Sections 30 and 37, Local Government Act 2000 Chapters 10 and 15, Guidance

#### 15.1 Duty to Monitor and Review the Constitution

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

#### 15.2 Changes to the Constitution

#### a) Consideration of Changes

The Constitution Review Working Party will:

- (i) Review sections of the constitution to ensure that they are complete, accurate, up to date, clear, lawful and fit for purpose.
- Receive and consider requests from the Monitoring Officer, Members, the Council or Committees, Directors or Heads of Service to review specific parts of the constitution.
- (iii) Consider recommendations on proposed amendments to sections from the constitution from the Monitoring Officer, Members, the Council, Committees Directors or Heads of Service.
- (iv) Recommend amendments to the constitution to the Audit and Governance Committee, another Committee of the Council (where appropriate) or to Cabinet (in relation to executive matters) as appropriate depending upon the subject matter, prior to final recommendations being submitted to Full Council for approve.

#### b) Approval:

Changes to the Constitution will only be approved by the Full Council unless stated otherwise.

#### c) Change from one form of executive to another:

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

# Article 16 – Suspension, Interpretation and Publication of the Constitution

#### **16.1** Suspension of the Constitution

#### a) Limit to suspension.

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.

#### b) Procedure to suspend.

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

#### c) Rules capable of suspension.

The following Rules may be suspended in accordance with Article 16.1:

**Council Procedure Rules** 

**Executive Procedure Rules** 

Policy and Performance Advisory Procedure Rules

**Financial Procedure Rules** 

Contracts Procedure Rules

#### 16.2 Interpretation

The ruling of the Chair of the 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.

#### 16.3 Publication

- (a) The Council's senior legal officer will make available a copy of this Constitution, either electronically or in hard copy if requested, to each councillor (and co-opted member) of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the councillor first being elected to the Council.
- (b) The Council's senior legal officer will ensure that copies are available for inspection at council offices and other appropriate locations and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Council's senior legal officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

# Article 17 - Position of Leader

# 17.1 Leader of the Council

The position of Leader of the Council is defined in Article 7.3.

## 17.2 Leaders of the Minority Groups

The members chosen by the largest political groups on the Council not forming part of the Administration shall be known as the Leaders of the Minority Groups. Those councillor's names when so appointed shall be notified to the Council's senior legal officer and reported to the Council. The Groups shall be known as the Minority Groups.

# 17.3 Leader of Any Other Political Group

Any other political group may, if it so wishes, appoint a Leader and that councillor's name shall be notified to the Council's senior legal officer and reported to the Council.

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

The following parts of this Constitution constitute the Executive arrangements:

- 1 Article 6 Policy and Performance Advisory Procedure Rule.
- 2 Article 7 The Cabinet and the Cabinet Procedure Rules.
- 3 Article 10 Area Committees and Forums if and when they are established and only insofar as functions are delegated to them by the Cabinet.
- 4 Article 11 Joint arrangements if and when they are established and only insofar as functions are delegated to them by the Cabinet.
- 5 Article 13 Decision making and the Access Information Procedure Rules.
- 6 Part 3 Responsibility for Functions.

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# PART 3

# **Responsibility for Functions**

Lewes District Council operates a Leader and Cabinet executive. The Executive comprises the Leader, who is elected by full Council, and 2 or more councillors who are appointed to the Executive by the Leader. The number of members of the Executive may not exceed 10.

This part of the Constitution explains who is responsible for the various functions of the Council. Functions fall into the following categories:

#### **1** Non-Executive Functions

These are functions which, by law, may not be the responsibility of the Executive. In some cases, such as adopting the Council's Budget or the Policy Framework, only the full Council meeting may take the decision. In other cases, the Council may delegate the responsibility for taking the decision to a Committee or an Officer.

#### 2 'Local Choice' Functions

There are some functions which the Council may treat as being the responsibility of the Executive (in part or whole) or as being non-executive, at its discretion.

#### 3 Executive Functions

All other functions are executive functions. Decisions on these functions will be taken by the Leader unless they are delegated or dealt with under joint arrangements.

# 4 Officer Delegations

Certain functions have been delegated to officers. Details of those delegations can be found in Part 9 of the Constitution.

Where a function has been delegated to an officer(s) ("delegated officers"), the decision may be taken in the name of (but not necessarily personally by) such delegated officer(s) by another officer(s) ("authorised officers(s)") in accordance with arrangements made from time to time by such delegated officer(s) for this purpose.

# 5 Interpretation

In this part of the Constitution:

"the 2000 Act" means the Local Government Act, 2000; "the 2000 Regulations" means the Local Authorities (Functions and Responsibilities) (England) Regulations, 2000; "the 1976 Act" means the Local Government (Miscellaneous Provisions) Act, 1976; "the 1993 Act" means the Noise and Statutory Nuisance Act, 1993; "the 1990 Act" means the Town and Country Planning Act, 1990.

# **Responsibility for Non-Executive and Local Choice Functions**

Council Body	Functions
Full Council (see Article 4 for details of Council functions)	<ul> <li>**Functions relating to elections and electoral registration.</li> <li>Functions relating to areas/individuals.</li> <li>Powers relating to byelaws.</li> <li>Powers relating to local/personal bills.</li> <li>Powers relating to standing orders.</li> <li>Powers relating to the appointment and designation of certain staff.</li> <li>Agreements for the placing of staff at the disposal of other local authorities.</li> </ul>
Leader of the Council	<ul> <li>*Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 of the 2000 Regulations, save to the extent that any such function is a licensing, consent, permission or registration function, in which case it shall be the responsibility of: <ul> <li>a) Planning Applications Committee, if it is a development control matter; and</li> <li>b) Licensing Committee in all other cases.</li> </ul> </li> <li>*Any function relating to contaminated land, the control of pollution or the management of air quality, unless it concerns: <ul> <li>a) the determination of an application for a licence, approval, consent, permission or registration; or</li> <li>b) the direct regulation of a person; or</li> <li>c) the enforcement of any such licence, approval, consent, permission or direct regulation in which case it shall be the responsibility of the Licensing Committee.</li> </ul> </li> </ul>

	*The appointment of any individual:
	<ul> <li>a) to any other office other than an office in which he is employed by the authority, and the revocation of any such appointment;</li> </ul>
	<ul> <li>b) to any other body other than (i) the authority or</li> <li>(ii) a joint committee of two of more authorities, and the revocation of any such appointment; or</li> </ul>
	<ul> <li>c) to any committee or sub-committee of such a body, and the revocation of any such appointment.</li> </ul>
	<ul> <li>d) Leader is the decision making body for these functions which are the responsibility of the Leader; Planning Applications Committee in relation to development control functions; Licensing Committee in relation to licensing/health and safety functions; and Full Council in relation to any other function.</li> </ul>
Planning Applications Committee (see Part 11 for details of Committee functions)	• *The obtaining of information under section 330 of the 1990 Act as to interests in land (Leader only insofar as a preliminary to the exercise of compulsory purchase powers).
	• *The obtaining of particulars of persons interested in land under section 16 of the 1976 Act (Leader only insofar as a preliminary to the exercise of compulsory purchase powers).
	• Functions relating to planning and conservation.
	<ul> <li>The exercise of powers relating to highways, use and regulation.</li> </ul>
Licensing Committee	<ul> <li>*The determination of an appeal against any decision made by or on behalf of the authority.</li> </ul>
(see Part 11 for details of Committee functions)	• *The service of an abatement notice in respect of a statutory nuisance.
	• *The inspection of the authority's area to detect any statutory nuisance.
	<ul> <li>*The investigation of any complaint as to the existence of a statutory nuisance.</li> </ul>
	Functions relating to taxi, gaming, alcohol,

		entertainment, food and miscellaneous licensing.
	•	Functions relating to health and safety.
Audit and Governance Committee	•	The provision and maintenance of high standards of conduct within the Council.
(see Part 11 for details of Committee functions)		Monitor and advise the Council on the operation of its Code of Conduct.
		Assistance to members and co-opted members of the authority.
	•	Other functions relating to standards of conduct of members.
	•	Powers relating to payments in cases of maladministration.
Joint Staff Advisory Committee	•	Providing advice to Council, Cabinet and officers on functions relating to employment.
(see Part 11 for details of Advisory Committee functions)		

The Committees set out above may from time to time add to or alter those delegations, as appropriate, within their functional responsibilities.

\* Denotes a local choice function

\*\*The 2000 Regulations state that certain listed functions are not to be the responsibility of an authority's executive. These listed functions include the following:

- 1. Duty to appoint an electoral registration officer;
- 2. Functions in relation to towns and parishes as contained in Part II of the Local Government and Rating Act 1997 (ie functions relating to review of town and parishes, establishment of new towns and/or parishes, electoral arrangements in connection with such reviews);
- 3. Powers to dissolve small parish councils;
- 4. Duty to appoint returning officer for local government elections; and
- 5. Duty to provide assistance at European Parliamentary elections.

# **Responsibility for Executive Functions**

- 1 Executive functions are all of the Council's functions which are not the responsibility of any other part of the Council, by law or under this Constitution.
- 2 All executive decision-making power is vested in the Leader personally.
- 3 The Leader may choose to exercise these powers himself/herself. Alternatively, the Leader may choose to arrange for decisions to be taken by:
  - the Executive (ie. Cabinet)
  - another member of the Executive (ie. a Cabinet Member)
  - a Committee of the Executive
  - an Area Committee
  - an Officer of the authority.
- 4 If the Leader has delegated the power to make a decision, then the person or body to whom the decision-making power has been delegated may (unless the Leader directs otherwise) themselves delegate onwards.
- 5 The person or body with the power of delegation can always recover the power to make the decision themselves/itself.
- 6 At Lewes District Council, the Leader has reserved to himself/herself the power to make any decision affecting any executive function in the case of any District-wide emergency or major incident. The Leader will inform/consult the other 'Alliance' Group Leaders so far as is reasonably possible in these circumstances.
- 7 The Leader has delegated the power to Cabinet members to make any non-key\* decision affecting any of the matters falling within his/her remit subject to the following:
  - the Cabinet member shall not make any decision in the absence of a written officer report which includes reference to any relevant financial and/or legal implications
  - where any decision might affect the portfolio of one or more other Cabinet members the decision-maker shall consult with such member(s) and the fact and outcome of the consultation shall be included in the decision-record. In the event of there being no consensus the matter shall be referred to Cabinet for decision.
  - no decision shall result in the local authority incurring unplanned expenditure without prior consultation with the Chief Finance Officer. Such expenditure shall not exceed £50K.

- no decision shall be made if it has obvious potential to adversely affect the reputation of the council.
- The Leader directs that there shall be no onward delegation from any Cabinet member to an officer, save that the Cabinet member may authorise an officer to implement the Cabinet member's decision.

#### \*What is a key decision?

"Key decisions" relate to a decision, which is likely:-

(1) 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

(2) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Council's area.

The Chief Finance Officer is of the view that any expenditure or saving in excess of £250k, or any capital scheme with revenue implications in excess of £250k are "significant" in the context of the definition of what is a "key decision". This is reflected in the Council's Financial Procedure Rules (para. 3.1.10.1)"

8 The table below indicates how the Leader has allocated portfolios (lead responsibilities) for particular executive functions among individual Members of the Cabinet.

Portfolio	Name	Functions
Finance, Assets and Community Wealth Building Leader of the Council	Councillor Zoe Nicholson	-Economic development -Plural economy -Regeneration and LEP -Housing development (including building council homes -Capital projects (Marine Workshops, NSQ) -Finance -Audit -Asset management -Risk
Community wellbeing Deputy Leader	Councillor Christine Robinson	-Customer First -Revs and Bens -Community safety -Licensing -Environment health -Cost of living crisis response

Portfolio	Name	Functions
		-Partnerships, incl. parish and town councils -Devolution -Council Tax -Business continuity and emergency planning
Planning and infrastructure	Councillor Laurence O'Connor	<ul> <li>Planning First</li> <li>Planning policy and local plan development</li> <li>Planning Service</li> <li>Strategic regional links.</li> <li>Infrastructure related to needs arising from planning</li> <li>Dev management</li> <li>Neighbourhood Plans</li> <li>Contaminated land</li> <li>CIL</li> <li>South Downs National Park</li> </ul>
Neighbourhood wellbeing	Councillor Wendy Maples	<ul> <li>Environment First</li> <li>Recycling and waste</li> <li>Litter management</li> <li>Clean streets and roads,</li> <li>Neighbourhood first</li> <li>Public conveniences</li> <li>Car parks</li> <li>Fly tipping</li> <li>Play spaces</li> </ul>
Climate, nature and food systems	Councillor Emily O'Brien	<ul> <li>Sustainability</li> <li>Biodiversity</li> <li>Rewilding</li> <li>Open spaces and parks</li> <li>Wildflowers</li> <li>Flood management and coastal erosion</li> <li>Grounds maintenance</li> </ul>
Tenants and those in housing need	Councillor Mark Slater	<ul> <li>Homes First</li> <li>Social landlord</li> <li>Estate management</li> <li>Housing services</li> <li>Homelessness prevention,</li> <li>Decarbonisation of our housing stock,</li> <li>Private renting</li> </ul>
Arts, culture and	Councillor Johnny	-Play Spaces

Portfolio	Name	Functions
Tourism and leisure	Denis	-Arts -Heritage, and Tourism -Leisure services, (including Southover House) - Lewes Local Lottery -Voluntary sector grants
Innovation, delivery and people	Councillor Chris Collier	<ul> <li>Digitisation of service provisions</li> <li>IT</li> <li>Comms</li> <li>HR</li> <li>Corporate plan</li> <li>Performance</li> <li>Safeguarding</li> <li>Equalities</li> <li>Project and programme management</li> </ul>

# PART 4

**RULES OF PROCEDURE** 

# **Council Procedure Rules**

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# **Council Procedure Rules**

# 1 Annual Meeting of the Council

## 1.1 Timing and Business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (i) elect a person to preside if the Chair of the Council is not present;
- (ii) elect the Chair of the Council;
- (iii) appoint the Vice Chair of the Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chair and/or head of the paid service;
- (vi) elect the leader (at the meeting following local elections);
- (vii) appoint at least one Scrutiny Committee (which is called the Policy and Performance Advisory Committee), an Audit and Governance Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution); and
- (viii) consider any business set out in the notice convening the meeting.

# **1.2** Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

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

# 2 Ordinary Meetings

Ordinary meetings of the Council will take place in accordance with a programme decided by the Council. Ordinary meetings will

(i) elect a person to preside if the Chair and Vice-Chair are not present;

- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the Chair, Leader, Cabinet Members or the head of paid service;
- (v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (vi) receive petitions from councillors or members of the public;
- (vii) receive written questions from councillors;
- (viii) receive reports from the Cabinet and the Council's committees and receive questions and answers on any of those reports;
- (ix) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (x) consider motions;
- (xi) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Policy and Performance Advisory Committee or its Panels for debate; and
- (xii) receive ward issues which councillors raise.

# 3 Extraordinary Meetings

#### 3.1 Calling Extraordinary Meetings

Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Chair of the Council;
- (iii) the Monitoring Officer; and
- (iv) any five members of the Council if they have signed a requisition presented to the Chair of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

# 4 Substitute Members

- **4.1** The Council may, from time to time, approve a list of members of the Council who are appointed to act as substitute members at meetings of committees and other bodies, the list being referred to as "the approved list" in this Procedure Rule.
- **4.2** A Councillor on the Cabinet or a Standards Panel is not entitled to appoint a substitute. A Councillor on the Cabinet may not be appointed to act as a substitute on the Policy and Performance Advisory Committee or the Audit and Governance Committee.

No Councillor on the approved list shall sit on or act as substitute on the Licensing Committee or Licensing Sub-Committee. No Councillor on the approved list shall sit on or act as substitute for the Planning Applications Committee unless they have undertaken appropriate training and a list of those Councillors who have been trained will be maintained by the Head of Democratic Services.

A Councillor appointed to serve on a Sub-Committee of the Cabinet shall be permitted to appoint a substitute, who must also be a member of the Cabinet and of the same political group as the member unable to attend the meeting.

- **4.3** The substitute member shall be the member ascertained as follows, namely, the substitute member:
  - (a) will be on the approved list;
  - (b) with the exception of the Audit and Governance, Joint Staff, and Planning Applications Committees will be of the same political group as the member unable to attend the meeting;
  - (c) will be the first person able to attend the meeting who is contacted by the member unable to attend and who has not already agreed to act as substitute for another member, and
  - (d) will not already be a member of the committee or other body on which he/she is intending to serve as substitute.
- **4.4** The agenda for each meeting of the committee or other body shall contain as its first item "Declaration of Substitute Members" and as the first business of the meeting the Chair of the meeting shall ask if any member present is substituting for another member and, if so, to declare his/her name as substitute member and the name of the absent member.
- **4.5** If a member intending to act as a substitute joins a meeting after consideration by the meeting of the "Declaration etc" item the member shall forthwith be required to make the declaration and, if necessary, the Chair shall interrupt the proceedings of the meeting for that purpose.
- **4.6** Subject to compliance with the foregoing and any statutory or other requirements, a substitute member may attend, speak and vote as a member of the committee or other body at the meeting for which he/she is a substitute member, including any adjournment thereof. The member who is unable to attend the meeting shall not be a member of the committee or other body concerned for the meeting, or an adjournment of that meeting.
- **4.7** A member who is unable to attend a meeting shall notify that fact and the name of the substitute member to the Head of Democratic Services, who will arrange for agenda papers to be sent to the

substitute member if time permits or for the papers to be available for the substitute member at the meeting.

# 5 Time and Place of Meetings

The time and place of meetings will be determined by the Council's senior legal officer and notified in the summons.

# 6 Notice of and Summons to Meetings

## 6.1 Notice and Summons

The Council's senior legal officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Council's senior legal officer will send a summons signed by the Proper Officer by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

# 6.2 Numbering

The Minutes of the Cabinet or other committee which require confirmation by the Council, shall be circulated with the Council Summons and (so far as is practicable) in date and consecutive number order.

# 6.3 Items for Ratification

Only such items of the proceedings of the Cabinet or other Committee which require ratification by the Council shall be circulated with the Council Summons.

#### 6.4 Call-Over

- (a) Before the Council receives and considers the proceedings of the Cabinet or other committee the Council's senior legal officer shall call over item by item the recommendations which appear on the agenda of the Council meeting. A member wishing to speak on or vote against any such recommendation may, immediately the number of the item has been called by the Council's senior legal officer, reserve it for debate.
- (b) After the Council's senior legal officer shall have called over all the items as aforesaid, the Chair shall move a motion that the recommendations of the Cabinet or other committee, with the exception of those items which have been reserved, be received and adopted.

(c) The Chair of the Cabinet or other committee shall separately move each item on the proceedings of his/her committee which has been reserved.

# 7 Chair of Meeting

The person presiding at the meeting may exercise any power or duty of the Chair. Where these rules apply to committee and sub-committee meetings, references to the Chair also include the Chairs of committees and sub-committees.

# 8 Officers Speaking

No officer may be called upon to speak at Council meetings, without the consent of the Chair of the Council. However, with such consent, an officer may contribute by way of answers to a question to clarify a point or to alert Council to factual inaccuracies in any report. With the consent of the Chair, Directors, together with officers holding statutory positions, shall not be prevented from addressing the Council where they see fit to do so and so far as they act within the law.

# 9 Quorum

The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting. One quarter of 41 members is 11.

# **10** Duration of Meeting

Unless the majority of members present vote for the meeting to continue, any meeting that has lasted for 4½ hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

# 11 Questions by the Public

# 11.1 General

# **Questions at Council**

A period of up to 30 minutes will be allowed at ordinary meetings of the Council during which members of the public may ask questions of members of the Cabinet.

# **Questions at Cabinet**

A period of up to 30 minutes will be allowed at meetings of the Cabinet during which members of the public may ask questions.

## 11.2 Order of Questions

Questions will be asked in the order notice of them was received, except that the Chair may group together similar questions.

#### **11.3 Notice of Questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of Democratic Services no later than midday three working days before the day of the meeting. Each question must give the name and address of the questioner and the name of the organisation they represent (if applicable) and must name the member of the Cabinet to whom it is to be put.

#### 11.4 Number of Questions

At any one meeting no person may submit more than three questions and no more than three such questions may be asked on behalf of one organisation.

# 11.5 Scope of Questions

The Council's senior legal officer may reject a question if:

- in respect of a question at Council, it is not about a matter for which the local authority has a responsibility or which affects the district; or in respect of a question at Cabinet, it is not about a matter which is relevant to the powers, duties and responsibilities of the Cabinet; or
- it is defamatory, frivolous or offensive; or
- it is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- it requires the disclosure of confidential or exempt information; or
- it is a statement rather than an enquiry to obtain information.

# 11.6 Record of Questions

The Head of Democratic Services will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.

# 11.7 Asking the Question at the Meeting

The Chair will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

#### 11.8 Supplemental Question

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds in Rule 11.5 above. Unless the Chair decides otherwise, no discussion will take place on any question.

#### **11.9 Written Answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer. (Minutes of the meeting will record the fact that a question has been asked and by whom and indicate briefly the subject but will not give details of the question or of the answer).

#### 11.10 Reference of a Question Asked at Council, to the Cabinet or a

#### Committee

Any member may move that a matter raised by a question be referred to the Cabinet or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

# 12 Questions by Members

#### 12.1 On Reports of the Cabinet or Committees

A member of the Council may ask the Leader, a Cabinet Member or the Chair of a committee or sub-committee any question without notice upon an item of the report of the Cabinet or a committee or subcommittee when that item is being received or under consideration by the Council.

#### 12.2 Written Questions from Councillors at Full Council

Subject to Rule 12.4, a member of the Council may ask:

- the Chair;
- the Leader;
- a Cabinet Member;
- the Chair of any committee or sub-committee; or
- a member of the Council appointed by the Council to any external body or joint authority

a question on any matter in relation to which the Council has powers or duties or which affects the district.

#### 12.3 Written Questions from Councillors at Committees and Sub-Committees

Subject to Rule 12.4, a member of the Council may ask the Chair of a committee or sub-committee a question on any matter in relation to which the Council has powers or duties or which affect the District and which falls within the terms of reference of that committee or sub-committee.

#### 12.4 Notice of Questions

A member may only ask a question under Rule 12.2 or 12.3 if either:

- (a) they have given notice of the question to the Head of Democratic Services in writing or by electronic mail not later than close of business on the fourth working day before the meeting at which the question is to be asked; or
- (b) where the question relates to an urgent matter, they have the consent of the Chair, Leader, Cabinet Member or the Chair of the committee or sub-committee to whom the question is to be put and the content of the question is given to the Head of Democratic Services by 10.00am on the day of the meeting.

# 12.5 Response

An answer may take the form of:

- (a) a direct oral answer from the person to whom it is addressed or by a person on his/her behalf;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

#### 12.6 Supplementary Question

A member asking a question under Rule 12.2 or 12.3 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

**12.7** The questioner shall have a period of two minutes to put the initial question and one minute to put the supplementary question. The respondent shall have a period of three minutes for the initial reply and two minutes for the supplementary.

# 13 Receipt of Petitions

Any petitions presented to Council will be dealt with in accordance with the procedures set out in the Petitions Scheme in Part 6 of the Constitution.

# 14 Motions on Notice

#### 14.1 Notice

Except for motions which can be moved without notice under Rule 16.10, notice of every motion must be delivered to the Head of Democratic Services either in writing, signed by the member(s) giving notice, or by electronic mail provided it is sent from the member's Lewes District Council e-mail address, not later than 15 clear days before the date of the meeting. These will be entered in a book open to public inspection. The content of any explanatory preamble to any motion shall be kept as brief as possible.

#### 14.2 Circulation

As soon as practicable following receipt of any motion, the Head of Democratic Services will circulate the same electronically to all councillors, prior to publication of the Council agenda.

#### 14.3 Scope

Every motion shall be relevant to some matter in relation to which the Council has statutory powers, duties, functions or influence.

# 14.4 Motion Set Out in Agenda

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

# 15 Amendments

# 15.1 Notice

Notice of any proposed amendment to any member/officer recommendation in any report or item for and/or information must be delivered to the Head of Democratic Services either in writing, signed by the member(s) giving notice, or by electronic mail provided it is sent from the Councillor's Lewes District Council email address, not later than 24 hours in advance of the meeting.

# 15.2 Circulation

Wherever practicable, following receipt of any proposed Amendment, the Head of Democratic Services will circulate the same electronically to all councillors prior to the Council meeting.

## 16. Procedures for Debate

- 16.1 The following procedure for debate applies to **notices of motion only**, but not to matters referred to Council for decision and/or information (which are covered by paragraph 16.2 below):
  - (a) The Chair will call upon the relevant member to put the motion.
  - (b) The Chair will call for a seconder. A member seconding a motion may reserve his/her right to speak later in the debate.
  - (c) If there is no seconder, the motion falls without debate and the Council proceeds to the next item of business
  - (d) The Chair will invite the proposer of the motion to make his/her speech
  - (e) The Chair will call in turn other members who have indicated a wish to speak on the motion
  - (f) At any point in the debate, a member may propose an amendment to the motion. At this point, the Chair will call for a seconder. If there is no seconder, the amendment is not debated.
  - (g) Once an amendment is proposed and seconded, the Council will specifically debate the amendment starting with the proposer of the amendment. The seconder may reserve his/her right to speak later.
  - (h) The Chair will call in turn other members who have indicated a wish to speak on the amendment. Members who have already spoken on the original motion may speak again on the amendment.
  - (i) At the end of the debate on the amendment, the Chair will put it to the vote. If carried, the effect of the amendment will be added to the original motion and Council will return to debating the motion as now amended. If it is not carried, the Council will return to the debate on the motion as originally proposed.
  - (j) Any subsequent amendments will then be managed in the same way as that set out in (f) to (i) above. If a previous amendment has been carried, subsequent amendments must be on the motion as amended.
  - (k) Once all amendments have been considered the Chair will Return to the debate on the substantive motion. Any member who has

already spoken to the motion may not speak again except for under the general rights set out in paragraph 16.6 below. Any member who has only spoken to amendments or has yet to speak at all may speak at this point.

- (I) At the conclusion of the debate, the Chair will invite the proposer of the original motion to respond before the vote is taken.
- (m) The Council will vote on the substantive motion. This will either be the original motion if there have been no carried amendments or as amended by any amendments that have been carried.
- (n) Where a decision is required to be relayed to an external agency, this will be undertaken on the Council's behalf by the Council Secretary and any responses to such decisions shall be circulated to all Councillors.
- **16.2** The following procedure for debate applies to **matters referred to Council for decision and/or information** but not to notices of motion (which are covered by paragraph 16.1 above). Amendments will be dealt with as below and in accordance with Rule 16.6.
  - (a) The Chair will call upon the relevant member to put the proposal (ie the recommendation to Council or the Motion as appropriate).
  - (b) The Chair will call for a seconder.
  - (c) The Chair will deal with amendments received in the order they were received and as follows:
    - (i) the Chair will call upon the relevant member to submit his/her proposed Amendment; and
    - (ii) the Chair will call for a seconder.
  - (d) The Chair will invite the mover of the original proposal to speak and then in turn any member who has moved an Amendment.
  - (e) The Chair will call in turn other members, in no particular order, who have indicated a wish to speak.
  - (f) At the end of the debate the Chair will invite the mover of the original proposal to respond before the vote is taken.
  - (g) The vote will be taken on the first tabled Amendment, if any.
  - (h) If the vote is successful the Chair shall declare the proposal carried and no further Amendments on the same subject matter shall be voted upon.
  - (i) If the vote is lost the Chair will put to the vote in turn any other Amendments submitted.

- (j) On a successful vote the Chair shall declare the proposal carried and no further votes on the same subject matter shall be taken.
- (k) If all Amendments are lost the Chair will put the original proposal to the vote and if successful it shall be carried and no further votes shall be taken.
- (I) Where a decision is required to be relayed to an external agency, this will be undertaken on the Council's behalf by the Head of Democratic Services and any responses to such decisions shall be circulated to all Councillors.
- **16.3** No speeches shall take place until a proposal is seconded. If no seconder is forthcoming, the matter will be closed and the meeting will proceed to the next item of business.

#### 16.4 Length of Speeches

- (a) At the meeting of the Council which considers the General Fund Revenue Budget of the Council for the following financial year, the leader of the Council (or another member of the Cabinet) may, in moving the Revenue Budget (together with the requirement on the Collection Fund), speak for a period not exceeding 20 minutes.
- (b) No other speech at any meeting of the Council shall exceed five minutes except by consent of the Council which shall be given or refused without debate. A member may continue his/her speech for one further period not exceeding five minutes as the Council may allow without a debate.
- (c) When one minute of the permitted time of a speech remains a warning (amber) light shall be shown and a second warning (red) light shall be shown at the end of the allotted time. The member shall then cease speaking and will sit down unless the Council has given its consent to the speech continuing as provided above.

# 16.5 When a Councillor May Speak Again

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

- (a) as the mover of the original proposal (but not of an Amendment), to exercise the right to reply at the end of the debate and before a vote is taken in accordance with Rule 16.1(f);
- (b) on a point of order; and
- (c) by way of personal explanation.

## 16.6 Amendments

- (a) An amendment to a motion must be relevant to the motion or recommendation and will be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration; or
  - (ii) add, replace or leave out words,

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

- (b) All Amendments shall be moved and seconded prior to debate.
- (c) No further Amendments may be submitted by any of the speakers during the debate.

If during the course of debate, a member wishes to propose some minor modification of wording to the proposer of any Amendment they may do so, in which case it will be a matter for the discretion of the relevant proposer of the Amendment as to whether he/she accepts that minor modification. No minor modification will be the subject of a vote.

(d) The vote will be taken on any seconded Amendment(s) first and only if these are defeated will the original proposal be put to the vote.

#### 16.7 Alteration of Motion

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

#### 16.8 Withdrawal of Motion

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

# 16.9 Right of Reply

- (a) The mover of a proposal has a right to reply at the end of the debate, immediately before a vote is taken.
- (b) The mover of an Amendment has no right of reply at the end of the debate.
- (c) At the end of the debate on any policy matter before the Council, the Leader shall have a right of reply.

# 16.10 Motions which May be Moved During Debate

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

- (a) to withdraw a motion;
- (b) to proceed to the next business;
- (c) that the question be now put;
- (d) to adjourn a debate;
- (e) to adjourn a meeting;
- (f) that the meeting continue beyond  $4\frac{1}{2}$  hours in duration;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a member named under Rule 22.3 or to exclude them from the meeting under Rule 22.4.

# **16.11 Motions without Notice**

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;

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- (f) to receive reports or adoption of recommendations of the Cabinet, committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (I) to adjourn a meeting;
- (m) that the meeting continue beyond 4<sup>1</sup>/<sub>2</sub> hours in duration;
- (n) to suspend a particular council procedure rule;
- (o) to exclude the public and press in accordance with the Access to Information Rules;
- (p) to not hear further a member named under Rule 22.3 or to exclude them from the meeting under Rule 22.4;
- (q) to give the consent of the Council where its consent is required by this Constitution;
- (r) to extend the time limit for speeches;
- (s) to record names on a vote;
- (t) proposal that a vote be by ballot

#### **16.12 Closure Motions**

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

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- (c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 16.13 Point of Order

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

#### 16.14 Personal Explanation

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

# 17 Previous Decisions and Motions

#### 17.1 Motion to Rescind a Previous Decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least five members and unless there has been a significant change of circumstance.

#### 17.2 Motion Similar to one Previously Rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 5 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

# 18 Voting

#### 18.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting for or against (which must be at least equal to the quorum) and present in the room at the time the question was put. If no such majority is achieved, then debate on the motion shall continue to try and obtain such a majority. If the required majority cannot be obtained, then the motion will fail.

#### 18.2 Chair's Casting Vote

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

#### 18.3 Show of Hands

Unless a ballot or recorded vote is demanded under Rules 18.4 and 18.5, the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

#### 18.4 Ballots

The vote will take place by ballot if five members present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

#### 18.5 Recorded Vote

If five members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

#### 18.6 Recorded Vote on Budget and Council Tax setting

This is a mandatory standing order under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014

Immediately after a vote is taken on any decision relating to the budget or council tax, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

#### 18.7 Right to Require Individual Vote to be Recorded

This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993.

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

#### **18.8 Voting on Appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes cast in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

## 19 Ward Issues

A period of up to 15 minutes shall be allowed at meetings of the Council for councillors to raise ward issues. At the request of the Chair, the Council may by vote, without any debate, allow a further period of 15 minutes.

- **19.1** A ward issue shall mean an issue in a ward of the District that the councillor has tried to resolve, but has been unable to resolve, and in respect of which the Council can take action or exercise influence. A proposed ward issue may be rejected by the Chair/Senior Legal Officer if the councillor has not shown that they have liaised with the appropriate officer to try to deal with the issue before raising it at Council.
- **19.2** Notice of any ward issue must be delivered to the Head of Democratic Services either in writing signed by the member giving notice or by electronic mail provided it is sent from the member's Lewes District Council address not later than three clear days before the date of the meeting. The notice will briefly state the nature of the issue.
- **19.3** In exceptional circumstances, if a ward issue has arisen after the deadline for submission and needs to be raised urgently, the councillor shall use their judgement to decide whether to submit the ward issue, in which case they will notify the Chair of the nature of the issue in advance of the meeting.
- **19.4** When speaking to a ward issue a councillor shall:
  - (a) Explain the facts relating to the issue concisely;
  - (b) Close his/her speech with the comment: "The action I would like the Council to take is as follows(and state the action)";
  - (c) Conclude his/her speech within three minutes.

When the Councillor raising the ward issue has finished speaking on that issue, the Chair of the Council shall have discretion to allow a modest amount of discussion relevant to the issue.

#### 20 Minutes

#### 20.1 Signing the Minutes

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

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#### 20.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993. The language is constrained by that permitted in the regulations.

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

#### 20.3 Form of Minutes

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

# 21 Record of Attendance

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

# 22 Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 24 (Disturbance by Public).

# 23 Members' Conduct

#### 23.1 Standing to Speak

When a member speaks at full Council they must stand and address the meeting through the Chair. If more than one member stands, the Chair will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

#### 23.2 Chair Standing

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

#### 23.3 Member Not to be Heard Further

If a member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair

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may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

#### 23.4 Member to Leave the Meeting

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

#### 23.5 General Disturbance

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

#### 24 Disturbance by Public

#### 24.1 Removal of Member of the Public

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

#### 24.2 Clearance of Part of Meeting Room

If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

#### 25 Recording, Filming, Broadcasting and Reporting of Council and Committee Meetings

- **25.1** With the knowledge of the Council, the public have the right to record, film, broadcast and report meetings of the Council that are open to the public, which includes the use of digital and social media recording tools such as twitter, blogging etc.
- **25.2** The Chair of the meeting will have absolute discretion to terminate or suspend any of these activities if, in their opinion, continuing to do so would prejudice proceedings at the meeting.
- **25.3** While those attending Council and Committee meetings are deemed to have consented to the filming, recording or broadcasting of meetings, those exercising the rights to film, record and broadcast must respect the rights of other people attending under the Data Protection Act 1998.
- **25.4** Any person or organisation choosing to film, record or broadcast any meeting of the Council is responsible for any claims or other liability from them so doing.

# 26 Suspension and Amendment of Council Procedure Rules

#### 26.1 Suspension

All of these Council Rules of Procedure except Rule 18.2 and 18.6 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

#### 26.2 Amendment

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

#### 27 Application to Committees and Sub-Committees

All of the Council Rules of Procedure apply to meetings of Full Council. Only Rules 5, 6.1, 7, 9 (except where a different quorum has been agreed), 10, 12, 14-22 and 24 apply to meetings of committees and sub-committees.

#### 28 Interpretation

**28.1** In these Procedure Rules, unless the context otherwise requires, the following expressions have the meaning assigned to them:

"Council" means the Lewes District Council;

"Cabinet" means a formal meeting of the Cabinet, convened in accordance with the access to information provisions of the Local Government Act 1972 and the Access to Information Procedure Rules contained in the Constitution;

"Committee" includes Committees, Panels and Sub-Committees;

"Chair of a Committee" includes the Vice-Chair of the Committee where appropriate or any other member of the Committee appointed by the Committee to act in the absence of the Chair or Vice-Chair;

"Chair" means the Chair of the District Council, or the person presiding at a meeting of the District Council;

"Other body" means any working party or other group including members which is constituted to review or advise on a specific topic or issue;

"Member" means an elected member of the Council;

"Cabinet Member" means a councillor on the Cabinet who has a particular area of responsibility; and

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"Clear days" means that time is to be reckoned exclusive, both of the day on which the notice is given, and of the day of the meeting. A Sunday or bank holiday will be counted as a clear day except that if the day on which an action is required or permitted to be done or the last day on which it could be done falls on a Sunday or bank holiday, that day will be disregarded and it will be assumed that the next following day was the appropriate day for the action.

**28.2** The ruling of the Chair as to the construction or application of any of the Procedure Rules included in Part 4 or as to the procedure of the Council, including points of order or the admissibility of a personal explanation or question of conduct shall be conclusive and shall not be challenged at any meeting of the Council, nor open to discussion.

# Appendix

# **Procedures for Appointments**

# 1 Election of Chair and Appointment of Vice-Chair of the Council

#### 1.1 In Non-Election Years

Nominations for Chair and Vice-Chair of the Council shall be delivered to the Head of Democratic Services before 12 noon on the seventh day before the Annual Meeting of the Council.

# 1.2 In Election Years

Nominations from members for the offices of Chair and Vice-Chair of the Council for the ensuing municipal year shall be delivered to the Head of Democratic Services by 12 noon on the Monday following the day of the District Council elections.

#### **1.3 Provision for Nominations**

In all cases, nominations shall be in writing, signed by the member making the nomination and stating that the approval of the person nominated has been obtained.

# 2 Chairs of Committees or Other Bodies

- 2.1 The Council shall, at its Annual Meeting or at such other meeting as shall be appropriate, consider the Report of the Council's senior legal officer as to any nominations received for the appointment of Chairs of committees, or other bodies and then proceed to make those appointments from its members. Whenever practical, the Head of Democratic Services shall notify all members of nominations received prior to such meeting. Casual vacancies in the office of Chairs of committee shall be considered at the first meeting of the appropriate committee or other body following the vacancy occurring.
- **2.2** The Vice-Chair of the Planning Applications Committee shall be elected by that Committee.
- **2.3** In the absence of the Chair from a meeting, a Chair for that meeting shall be appointed.
- 2.4 The Chair of the Audit and Governance Committee shall not be a member of the Group or Groups forming the Administration and shall not be Chair of the Policy and Performance Advisory Committee or any of its Panels
- **2.5** The Chair of the Policy and Performance Advisory Committee shall not be a member of the Group or Groups forming the Administration.

# 3 Membership of the Cabinet, Committees, or Other Bodies

#### 3.1 Non-Election Years

- **3.1.1** In a year when no ordinary District Council elections are to be held, the Head of Democratic Services shall, on or before the first day of April, ask each member whether he/she wishes any change to be made to his/her existing membership of any committee or other body.
- **3.1.2** Members shall notify the Head of Democratic Services of any changes requested before 12 noon on the twenty first day before the Annual Meeting of the Council.
- **3.1.3** The Head of Democratic Services shall summarise the replies received and submit details to the Leader of the Council and the Leaders of the Minority Groups who shall, in consultation with such other members as they may think fit, make recommendations to the Annual Meeting of the Council as to the membership of any committee or other body for the ensuing year.

# 3.2 Election Years

- **3.2.1** In a year when ordinary District Council elections are to be held, the Head of Democratic Services shall send to all duly nominated candidates, a notice requesting to be informed of the committees and other bodies of the Council on which the candidate, if elected, would wish to serve during the ensuing municipal year.
- **3.2.2** The Head of Democratic Services shall send a summary of the replies to the Leader elect of the Council and the Leaders of the Minority Groups who shall, in consultation with such other members as they may think fit, make recommendations to the ensuing Annual Meeting of the Council as to the membership of any committee or other body for the ensuing year.
- **3.3** As far as is practicable, the membership of committees or other bodies with the exception of executive bodies shall reflect the political composition of the Council.

# 3.4 Arrangements for Filling Casual Vacancies

If a casual vacancy (or vacancies) occurs on a committee, or other body, the following procedure for filling the vacancy may be followed, subject to the appointment(s) being confirmed formally at the first appropriate meeting of the committee, or Council:

 (a) where the provisions of the Local Government and Housing Act 1989 or paragraph 3.3 above apply, the Head of Democratic Services is authorised to make appointments to committees and other bodies which are allocated to a particular political group, in accordance with the wishes of that Group as notified to him, subject to seven clear days notice having been given;

- (b) if the vacancy is one allocated to members who do not belong to a political group, these arrangements shall still apply provided that all the members concerned are in agreement, and
- (c) any casual vacancy occurring, where the provisions of the Local Government and Housing Act 1989 or paragraph 3.3 above do not apply, shall be filled by the Council's senior legal officer, subject to seven clear days notice having been given to him and after consultation with and the agreement of the political groups.

# 4 Appointment of Representatives to Serve on Outside and Joint Bodies

#### 4.1 Non-Election Years

In a year when no ordinary District Council elections are to be held, the Head of Democratic Services shall send a list of Outside and Joint Bodies to all members, to enable them to indicate which bodies they wish to serve on should a vacancy arise together with any changes they would like to make to their existing memberships. The Head of Democratic Services shall summarise the replies received and submit details to the Leader of the Council and Leaders of the Minority Groups who shall make recommendations to the Annual Council Meeting for the appointment of members to Outside and Joint Bodies.

#### 4.2 Election Years

In a year when ordinary District Council elections are to be held, the Head of Democratic Services shall send a list of Outside and Joint Bodies to all duly elected councillors, to enable them to indicate on which bodies they would be interested in serving. A summary of the replies shall be considered by the Leader elect of the Council and the Leaders of the Minority Groups who shall make a recommendation to the Annual Council Meeting as to the appointment of representatives to serve on Outside or Joint Bodies.

#### 4.3 Arrangements for Filling Vacancies

If a vacancy arises, the Head of Democratic Services, in consultation with the Leader of the Council and the Leaders of the Minority Groups, shall be authorised to appoint a member pending confirmation at the next meeting of the Cabinet. In the event of the Leaders not being in agreement as to the member to be appointed, then the appointment shall await the next meeting of the Cabinet.

#### 4.4 Guidelines

The following guidelines for the appointment of representatives to serve on Outside and Joint Bodies shall be followed:

- (a) If the body relates to a particular town or rural area, the appointment(s) will, so far as is practicable, be made from councillors representing that town or rural area.
- (b) Appointments shall be made from existing District Councillors and non-councillors will only be appointed if no District Councillors are willing to serve on the body concerned.

# 5 Appointment and Dismissal of the Leader

#### 5.1 Appointment

The Council shall elect from amongst its members the Leader of the Council at the Annual Council meeting following local elections and at any other time where there is a vacancy in the office of Leader of the Council.

#### 5.2 Term of Office

The Leader shall hold office until the Annual Council meeting following the next local elections providing that s/he shall cease to be Leader if any of the following takes place:

- (a) s/he resigns from office; or
- (b) s/he is no longer a councillor; or
- (c) s/he is removed from office by resolution of the Council; or
- (d) s/he is otherwise disqualified by law.

#### 5.3 Notice and Special Procedure for Removing Leader

- **5.3.1** Before the Leader can be removed by a resolution of the Council, a notice in writing setting out the proposed resolution shall be given to the Chief Executive not less than 21 days before the date of the meeting of the Council at which it is proposed to pass the resolution.
- 5.3.2 The notice under 5.3.1 shall:
  - (i) be signed by at least two members of the Council (proposer and seconder);
  - (ii) state the date of the Council meeting at which it is proposed to pass the resolution; and
  - (iii) propose a member to replace the Leader.
- **5.3.3** On receipt of a valid proposed resolution, the Chief Executive shall send a copy of the notice to every member of the Council

as soon as practicable and, in any event, within seven days of the receipt of the notice.

- **5.3.4** Any two or more members may nominate an alternative member to become the new Leader providing that notice of such nomination is received not less than seven days before the date of the Council meeting at which the proposal to remove the Leader is discussed.
- **5.3.5** If the resolution to remove the Leader is carried, the appointment of the new Leader and voting thereon shall take place in accordance with Procedure Rule 5 of these rules.

#### 5.4 Voting Procedure for Electing Leader

- **5.4.1** All candidates must be declared before the first round of voting.
- **5.4.2** No round will be subject to the Council's ballot (secret vote) procedure.
- **5.4.3** If any candidate wins more than 50% of the total number of votes cast, in any round, then that candidate shall be declared the winner, and voting will cease.
- **5.4.4** For avoidance of doubt, abstentions will not count as votes cast.
- **5.4.5** After each round, subject to the following tie-break rule, the candidate with fewest votes will be eliminated.
- **5.4.6** In the event that two or more candidates are tied for the fewest votes, they become the "last-place tied candidates". The candidate or candidates eliminated will be determined as follows:
  - (i) If the total number of votes for the last-place tied candidates does not exceed the number of votes won by the next highest candidate, then all of the last-place tied candidates will be eliminated.
  - (ii) Otherwise, the candidate eliminated will be chosen from the last-place tied candidates by the drawing of lots.
  - (iii) After each round of voting, remaining candidates may address the meeting. Each address will be limited to two minutes.
- **5.4.7** If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

# Item E

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# PART 4

# **Rules of Procedure**

# Access to Information Procedure Rules

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# **Access to Information Procedure Rules**

### 1 Scope

These rules apply to all meetings of the Council, Policy and Performance Committee and its Panels, area committees (if any), the Audit and Governance Committee and regulatory committees and meetings of 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 Notices of Meeting

The Council will give at least five clear days notice of any meeting by posting details of the meeting at Lewes District Council offices at Southover House, Southover Road, Lewes, BN7 1AB.

### 5 Access to Agenda and Reports Before the Meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection for the time the item was added to the agenda.

# 6 Supply of Copies

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Council's senior legal 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.

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

#### 8 Background Papers

#### 8.1 List of background papers

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

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

#### 8.2 Public inspection of background papers

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

#### 9 Summary of Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and available to the public at Southover House, Southover Road, Lewes, East Sussex, BN7 1AB.

# 10 Exclusion of Access by the Public to Meetings

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

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

#### 10.2 Meaning of Confidential Information

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

#### 10.3 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.

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

#### **10.4 Meaning of Exempt Information**

Exempt information means information falling within the following categories (subject to the conditions shown):

Category of Exempt Information		Condition	
1.	Information relating to any individual.	See conditions 9 and 10 below.	
2.	Information which is likely to reveal the identity of an individual.	See conditions 9 and 10 below.	
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	See conditions 8, 9, 10 and 12 below.	
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.	See conditions 9, 10, 11 and 12 below.	
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	See conditions 9 and 10 below.	

Cate	gory o	of Exempt Information	Condition
6.		mation which reveals that the authority oses - 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.	See conditions 9, 10 and 12 below.
7.	to be	mation relating to any action taken or taken in connection with the ention, investigation or prosecution of e.	See conditions 9 and 10 below.
Cate	gory		
8.	<ul> <li>Information is not exempt information if it is required to be registered under:</li> <li>(a) the Companies Act 1985;</li> <li>(b) the Friendly Societies Act 1974;</li> <li>(c) the Friendly Societies Act 1992;</li> <li>(d) the Industrial and Provident Societies Acts 1965 to 1978;</li> <li>(e) the Building Societies Act 1986; or</li> <li>(f) the Charities Act 1993.</li> </ul>		
	"Financial or business affairs" includes contemplated as well as past or current activities.		
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.	Infor	mation which:	
	<ul> <li>(a) falls within any of paragraphs 1 to 7 above; and</li> <li>(b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,</li> </ul>		
11.	case inter	empt information if and so long, as in all e, the public interest in maintaining the ex est in disclosing the information. our relations matter" means:	
<ul> <li>(a) any of the matters specified in paragraphs (a) to (g) of sections of the Trade Union and Labour Relations (Consolidation) Action (matters which may be the subject of a trade dispute, within meaning of that Act); or</li> </ul>		ons (Consolidation) Act 1992	
	(b)	any dispute about a matter falling with	in paragraph (a) above;
	para	for the purposes of this definition the en graph (a) above, with the necessary mo ion to officeholders under the authority a	difications, shall apply in

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.

"Employee" means a person employed under a contract of service.

12. "The authority" is a reference to the Council or a committee or subcommittee of the Council or a joint committee of more than one council.

# 11 Exclusion of Access by the Public to Reports

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

#### 12 Application of Rules to the Cabinet

Rules 13 - 20 apply to the Cabinet and its committees and to Cabinet Members and officers if they are making key decisions. If the Cabinet or its committees meet to take a key decision, then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.3 of this Constitution.

# 13 **Procedure Before Taking Key Decisions**

Subject to Rule 15 (general exception) and Rule 16 (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 five 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 4 (notices of meetings).

# 14 The Forward Plan

#### 14.1 Period of Forward Plan

Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month (save in election years). They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

#### 14.2 Contents of Forward Plan

The forward plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers, area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents (if any) submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 28 days before the start of the period covered. The Council's senior legal officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the four-month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;

- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a forward plan and confidential information cannot be included.

**14.3** Every Councillor will be sent a copy of the forward plan by e-mail as soon as it is published.

# **15 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 16 (immediacy provision), 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 it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the Head of Democratic Services has informed the Chair of the Policy and Performance Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Head of Democratic Services has made copies of that notice available to the public at the offices of the Council; and
- (d) at least five clear days have elapsed since the Head of Democratic Services complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

# 16 Immediacy Provision

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Policy and Performance Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Policy and Performance Committee, or if the Chair of the Policy and Performance Committee is unable to act, then the agreement of the Chair of the Council, or in his/her absence the Vice-Chair will suffice.

# 17 Report to Council

#### **17.1** When the Policy and Performance Committee can require a report

If the Policy and Performance Committee thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Policy and Performance Committee Chair, or the Chair/Vice-Chair of the Council under Rule 16;

the Policy and Performance Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee but is also delegated to the Council's senior legal officer, who shall require such a report on behalf of the Committee when so requested by the Chair or by any three of the Committee's members. Alternatively, the requirement may be raised by resolution passed at a meeting of the Policy and Performance Committee.

# 17.2 Cabinet's Report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the Policy and Performance Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

# 17.3 Quarterly Reports on Special Urgency Decisions

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (immediacy provision) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

### 18 Record of Decisions

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Head of Democratic Services or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting 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.

#### 19 Cabinet Meetings

All Cabinet meetings will be held in public.

#### 20 Decisions by Individual Members of the Cabinet

#### 20.1 Reports Intended to be Taken into Account

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

#### 20.2 Provision of Copies of Reports to the Policy and Performance 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 Chair of the Policy and Performance Committee as soon as reasonably practicable and make it publicly available at the same time.

#### 20.3 Record of Individual Decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Head of Democratic Services to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information.

# 21 Policy and Performance Committee and its Panels – Access to Documents

#### 21.1 Rights to Copies

Subject to Rule 21.2 below, the Policy and Performance Committee or its Panels will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees or which was considered by the Cabinet or any of its committees at previous meetings 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 Cabinet.

### 21.2 Limit on Rights

The Policy and Performance Committee or its Panels will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

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# PART 4

# **Rules of Procedure**

# **Budget and Policy Framework Procedure Rules**

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# **Budget and Policy Framework Procedure Rules**

References:

Chapter 2, DETR Guidance

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000

# **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.

# 2 **Process for Developing the Framework**

The process by which the budget and policy framework shall be developed is:

- (a) The Cabinet will publicise (by including it in the forward plan and publishing it at the Council's offices and on its web site), a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. All members of council will also be notified. The consultation period shall in each instance be not less than four weeks.
- (b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If the Policy and Performance Advisory Committee wishes to respond to the Cabinet in that consultation process then it may do so. As the Policy and Performance Advisory Committee has responsibility for fixing its own work programme, it is open to the Policy and Performance Advisory Committee or its Panels to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from the Policy and Performance Advisory Committee or Panel into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- (c) Once the Cabinet has approved the firm proposals, the Council's senior legal officer will refer them at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place.

- (e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) Any in-principle decision will be notified to all councillors and a copy shall be given to the leader.
- (g) An in-principle decision will automatically become effective five working days from the date of the Council's decision, unless the Leader informs the Head of Democratic Services in writing within five working days that he/she objects to the decision becoming effective and provides reasons why.
- (h) In that case, the Chair of the Council shall call a Council meeting and the Council will be required to re-consider its decision and the written submission within 10 working days of being so informed by the Leader. The Council may:
  - (i) approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
  - (ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.
- (i) The decision shall then be made public in accordance with the Access to Information Rules in Part 4, and shall be implemented immediately;
- (j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

# 3 Decisions Outside the Budget or Policy Framework

(a) Subject to the provisions of paragraph 5 (virement) the Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council, subject to 4 below.

(b) If the Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers, or joint arrangements dischargingexecutive functions want to make such a decision, they shall take advice from the monitoring officer and/or the chief financial officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

#### 4 Urgent Decisions Outside the Budget or Policy Framework

- (a) The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. 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 Chair of the Policy and Performance Advisory 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 Chair of the Policy and Performance Advisory 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 Chair of the Policy and Performance Advisory Committee the consent of the Chair of the Council, and in the absence of both, the Vice-Chair, 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

(a) The Council shall have the following budget heads: Employees; Premises; Transport; Supplies and Services; Agency and Contracted Services; Support Services; Capital Charges, and Income.

(b) Any virement across those budget heads shall only be carried out in accordance with the requirements of the Council's Financial Procedure Rules and, where appropriate, Contract Procedure Rules.

#### 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, 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) where the existing policy document is silent on the matter under consideration.

#### 7 Call-in of Decisions Outside the Budget or Policy Framework

- (a) Where the Policy and Performance Advisory Committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the monitoring officer and/or chief financial officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the monitoring officer's report and/or chief financial 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 Policy and Performance Advisory 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 financial 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 Policy and Performance Advisory 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 Policy and Performance Advisory 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 financial officer. The Council may either:

- 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.

# PART 4

# **Rules of Procedure**

# Leader and Cabinet Procedure Rules

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# Leader and Cabinet Procedure Rules

#### **1** How Does the Cabinet Operate?

#### 1.1 Who May Make Executive Decisions?

- (a) The arrangements for the discharge of executive functions are set out in the arrangements made by the Leader and explained in Part 3 of the Constitution. In law the arrangements may provide for executive functions to be discharged to:
  - (i) the Leader:
  - (ii) the Cabinet as a whole;
  - (iii) a committee of the Cabinet;
  - (iv) an individual member of the Cabinet;
  - (v) an officer;
  - (vi) an area committee;
  - (vii) joint arrangements; or
  - (viii) another local authority.
- (b) The Council appoints the Leader and the Leader appoints members of the Cabinet. The Leader is also the Chair of Cabinet meetings. The Leader is required to appoint one of the members of Cabinet to be his/her Deputy and, in the Leader's absence, the Deputy Leader chairs meetings of the Cabinet. The Leader determines the functions to be determined by the Cabinet and the individual portfolios to be allocated to Cabinet Members. These may be varied from time to time by the Leader, giving notice to the Chief Executive.
- (c) The Leader may authorise any Cabinet member to discharge the functions of another Cabinet member in the event that the latter is unavailable or unable to act. Where given, such authorisation shall have effect for the period that the Cabinet Member in question remains unavailable or unable to act.

#### **1.2 Sub-Delegation of Executive Functions**

- (a) Where the Leader has delegated powers to the Cabinet, Cabinet can delegate these onward to a sub-committee of Cabinet or to an officer, unless the Leader otherwise directs.
- (b) Where the Leader has delegated powers to an individual member of Cabinet, this individual member can delegate these onward to an officer, unless the Leader otherwise directs.

- (c) Where either the Leader or the Cabinet has delegated powers to a committee of Cabinet, that committee can delegate these onwards to an officer, unless the Leader otherwise directs.
- (d) The Leader is able to recover and discharge personally any functions which have been delegated.
- (e) The current scheme of delegation of executive functions, as approved by the Leader, is set out in Part 3 of the 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. Where necessary, the Deputy Leader or, as the case may be, the relevant Cabinet member(s) shall discharge the function of the Leader in relation to the particular business in question.
- (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 the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (d) The arrangements in (a), (b) and (c) are subject to any alternative arrangements the Leader may make on a case by case basis or generally.

#### 1.4 Cabinet Meetings – When and Where?

The Cabinet will meet approximately every 6 weeks. The Cabinet shall meet at the Council's main offices or other location(s) to be agreed by the Leader. A special meeting of the Cabinet may be called by the Leader at any time subject to the statutory notice being given.

#### 1.5 Public or Private Meetings of the Cabinet?

All meetings of the Cabinet will be held in public. Full details of the public's right of access to meetings are set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

#### 1.6 Quorum

The quorum of Cabinet shall be one half of the membership of Cabinet. The same principal shall apply for a committee of Cabinet. If the meeting is not quorate the meeting may not take any decisions until the next quorate meeting.

#### **1.7** How are Decisions to be taken by the Cabinet?

- (a) Executive decisions which have been delegated to the Cabinet as a whole 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 Cabinet Meetings Conducted?

#### 2.1 Who Presides?

If the Leader is present he/she will preside. In his/her absence, the Deputy Leader shall preside. In the absence of the Deputy Leader, then a person appointed to do so by those present shall preside. In the case of Cabinet committees (if any) the Leader shall appoint the person to preside at the meeting.

#### 2.2 Who May Attend?

- (a) All meetings of the Cabinet are usually open to the public. The details are set out in the Access to Information Rules in Part 4 of this Constitution.
- (b) In addition to the rights councillors may have as members of the public:
  - the Leader of the opposition party, the Deputy Leader of the opposition party, the Chair of the Policy and Performance Advisory Committee and the Chair of the Audit and Governance Committee shall be entitled to attend and speak at any meeting of the Cabinet.
  - (ii) any other member of the Council may, subject to the prior agreement of the Chair of the meeting, attend and speak at meetings of the Cabinet where a decision affects that member's ward in particular.
  - (iii) the provisions of the Council Procedure Rules regarding member questions shall apply to meetings of the Cabinet.
- (c) The Tenants of Lewes District Group shall be invited to appoint two of its tenant members to attend and speak on those items on the agenda relating to housing tenant matters. Those tenant

members will not be entitled to vote and will not be eligible to attend for discussions on items of exempt information.

#### 2.3 What Business?

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

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) public and member questions;
- (iv) matters referred to the Cabinet (whether by the Policy and Performance Advisory Committee or its Panels or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Policy and Performance Advisory Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (v) consideration of reports from the Policy and Performance Advisory Committee or its Panels; and
- (vi) consideration of reports from Cabinet Members;
- (vii) consideration of reports from officers;
- (viii) 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 from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the 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 Agenda?

(a) The Leader may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter. Head of Democratic Services will comply with the Leader's requests in this respect.

- (b) Agenda Items for meetings shall be agreed by the Leader or member presiding at the meetings, the Chief Executive and the relevant Chief Officer of the Council. The advice of the Council's Monitoring Officer and Chief Financial Officer will be taken into account in considering what items should be put on the agenda.
- (c) Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. Any such request should be made by email with a concise statement relevant to the issue and should be sent to the Leader with a copy to the Head of Democratic Services no later than close of business on the eighth working day before the meeting. The notice of the meeting will give the name of the councillor who asked for the item to be considered. This individual will be invited to attend the meeting, whether or not it is a public meeting.
- (d) Any Chief Officer may similarly ask the Leader to put an item on the agenda of a Cabinet meeting for consideration and, if the Leader agrees, the item will be considered at the next available meeting of the Cabinet.
- (e) The Head of Democratic Services will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where the Policy and Performance Advisory Committee (or one of its Panels) or the Council has resolved that an item be considered by the Cabinet.
- (f) The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require such a meeting to be called in pursuance of their statutory duties.

#### 3 Questions by the Public

#### 3.1 General

A period of up to 30 minutes will be allowed at meetings of the Cabinet during which members of the public may ask questions.

#### 3.2 Order of Questions

Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

#### 3.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of Democratic Services no later than midday three working days before the day of the meeting. Each question must give the name and address of the questioner and the name of the organisation they represent (if applicable) and must name the member of the Cabinet to whom it is to be put.

#### 3.4 Number of Questions

At any one meeting no person may submit more than three questions and no more than three such questions may be asked on behalf of one organisation.

#### 3.5 Scope of Questions

The Council's senior legal officer may reject a question if:

- it is not about a matter which is relevant to the powers, duties and responsibilities of the Cabinet; or
- it is defamatory, frivolous or offensive; or
- it is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- it requires the disclosure of confidential or exempt information; or
- it is a statement rather than an enquiry to obtain information.

#### 3.6 Record of Questions

The Head of Democratic Services will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all members at the meeting and will be made available to the public attending the meeting.

#### 3.7 Asking the Question at the Meeting

The Chair will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

#### 3.8 Supplemental Question

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds in Rule 3.5 above. Unless the Chair decides otherwise, no discussion will take place on any question.

#### 3.9 Written Answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer. (Minutes of the meeting will record the fact that a question has been asked and by whom and indicate briefly the subject but will not give details of the question or of the answer).

# PART 4

# **Rules of Procedure**

# Policy and Performance Advisory Committee Procedure Rules

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# 1 What will be the Number and Arrangements for Policy and Performance Committee?

- (a) The Council will have one Policy and Performance Advisory Committee as set out in Article 6 and will appoint to it as it considers appropriate from time to time. The Committee may appoint Panels as appropriate to undertake any of its activities.
- (b) The Committee has a duty to input and review the discharge of the Cabinet functions of the Council and other related functions of the Council and to make reports and recommendations thereon. The Committee should be the key mechanism for enabling Councillors to represent the views of their constituents and other organisations and hence to ensure that those views are taken into account in key decisions and policy development. The Committee should take a cross-cutting rather than a narrow service-based view of the conduct of the Council's affairs. The Committee should consider different approaches and formats for their meetings.
- (c) The Policy and Performance Advisory process is different from the traditional committee approach in at least four ways:
  - Members must take a lead role and set the agenda (within limits set by the Council);
  - The Committee is not a decision-making body;
  - Officers supporting this function should be allowed to do so without constraint from the Cabinet (subject to agreed resource limits); and
  - The reports of the Committee are prepared in a different way after hearing and debating written and oral evidence.
- (d) Councillors serving on the Policy and Performance Advisory Committee should strive to be independent. They should seek consensus on outcomes whilst recognising political balance. They should be constructive and not judgmental. They should be open and transparent in their approach.

# 2 Who may sit on the Policy and Performance Advisory Committee?

All Councillors except members of the Cabinet may be members of the Policy and Performance Advisory Committee. However, no member may be involved in reviewing a decision in which he/she has been directly involved.

#### 3 Co-optees

- (a) The Policy and Performance Advisory Committee or Panel shall be entitled to appoint up to two people as non-voting co-optees.
- (b) The Committee, or Panel, when dealing with any housing matter relating to the Council's management of its housing stock, shall include two notified representatives of the Lewes District Organisation of Tenant and Residents Groups who shall be entitled to speak but not vote on any such matter. The organisation's representatives shall not be entitled to be present when any matter is discussed which is designated as an exempt item.

# 4 Meetings of the Policy and Performance Advisory Committee

The Policy and Performance Advisory Committee shall meet in every 'Cabinet cycle' each year, to ensure that the committee has an opportunity to input on any matter due for decision by Cabinet. In addition, as part of the scheduled meetings, the Committee will consider quarterly performance reports, annual budget proposals for the following year, and annual crime and disorder review matters together with Panel reports and any other matters previously earmarked in the work programme. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Committee may be called by the Chair of the Committee, by any three members of the Committee or by the Council's senior legal officer if he/she considers it necessary or appropriate.

#### 5 Quorum

The quorum for the Policy and Performance Advisory Committee shall be three.

# 6 Who Chairs Policy and Performance Advisory Committee Meetings?

The Chair of the Policy and Performance Advisory Committee shall be appointed by the Council and shall be a member of the largest Opposition Group. In the absence of the Chair, the Policy and Performance Committee shall be chaired by another member of an Opposition Group wherever possible.

# 7 Work Programme

(a) The Policy and Performance Advisory Committee will be responsible for setting its own work programme and in doing so it shall take into account the wishes of members on that Committee who are not members of the 'Administration'. The programme will be reviewed on an annual basis in liaison between this Committee, the Cabinet and the Corporate Management Team. The programme will have full regard to the availability of resources and, in particular, Officer support required

- (b) Certain elements of the work programme for scheduled meetings will be fixed as core items. These include:
  - Consideration of previously identified key decisions for Cabinet (every meeting)
  - Identification from the Forward Plan of key decisions to be considered at the next meeting (every meeting)
  - Performance Monitoring Reports (quarterly)
  - Budget Proposals (Annual)
  - Community Safety Partnership work review (Annual)

In addition to the above core items, proposed policy and/or performance reviews and other identified work will make up the rest of the work programme

- (c) When putting forward potential reviews in the proposed programme, the Committee shall ensure that the following matters are clearly stated:
  - Subject Matter
  - Specific details as to what issues are to be covered
  - An initial indication of the groups and organisations to be invited to contribute and the persons to be invited to attend.
  - Time limit
  - Officer involvement

Those putting forward suggestions for items for inclusion in the programme should therefore keep the above requirements in mind.

(c) In-year variations of the programme may be made in accordance with the provisions set out in the Committee's terms of reference in Part 2 of this Constitution.

#### 8 Agenda items

(a) Any member of the Council may give written notice to the Head of Democratic Services that they wish an item to be included on the agenda of the Committee. If the Head of Democratic Services receives such a notification, then they will include the item on the first available agenda of the Policy and Performance Advisory Committee for consideration by the Committee. If the matter is urgent and cannot await the next ordinary meeting of the Committee, an extraordinary meeting of the Committee shall be called by the Chair of the Committee or the Council's senior legal officer if at least three members of the Committee are in agreement with that course of action. (b) The Committee shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet to review particular areas of Council activity. Where they do so, the Committee shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Committee at their next available meeting.

#### 9 Policy Review and Development

- (a) The role of the Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Committee may make proposals to the Cabinet for developments in so far as they relate to matters within its terms of reference.
- (c) The Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so out of the budget allocated to them by the Council.

#### **10** Means of Conducting Reviews and Other Activities

- (a) The Committee should normally set up Panels of three or five Councillors to undertake detailed reviews as they arise on a task and finish basis and may similarly set up Panels to undertake other activities which the Committee wishes to delegate to them. The Panels will report their conclusions directly to Cabinet/Council as appropriate. The Panels will not have decision-making powers.
- (b) The number of Councillors to serve on a Panel shall be determined by the Committee with the Councillors being determined by the Committee or nominated by the respective Group Leaders. The Panels shall be politically proportionate except that the Leader of a political group may decide to offer one of their Group's places to another group or an Independent member. Should the leader of a political group decline to nominate councillors to serve on a panel or to offer one of their Group's places to another Group or an Independent Member, the matter shall be referred back to the Committee. Panels cannot include Cabinet members.

- (c) The Committee will set the Panels' terms of reference and time-scale for completing each review or activity. Should pressure on officer resources be such that the agreed timescale might become unrealistic, the matter shall be referred back to the Committee.
- (d) The quorum of a Panel shall be a majority of the number of members of the Panel.
- (e) Each Panel shall appoint a Chair from within its membership.
- (f) No more than four Panels shall be in existence at any one time (excluding those convened to consider call-in requests or matters identified in the forward plan of key decisions).

#### **11** Reports from the Policy and Performance Advisory Committee

- (a) Once it has formed recommendations on proposals for development, the Committee or Panel will prepare a formal report and submit it to the Council's senior legal officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If the Committee or Panel cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet shall consider the report of the Committee or Panel at their next available meeting and in any event within three months of it being submitted to the Council's senior legal officer.

# 12 Ensuring Policy and Performance Advisory Committee Reports are considered by Council or Cabinet

(a) Once the Committee or Panel has completed its deliberations on any matter it will forward a copy of its final report to the Council's senior legal officer who will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Council's senior legal officer refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Cabinet will at its next available meeting respond to the Committee or Panel report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from the Committee or a Panel on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the Committee proposals. (b) In respect of core items such as input into forthcoming key decisions of Cabinet, the Committee Officer will ensure that commentary and recommendations on the matter in hand are agreed and submitted to the Cabinet meeting to be taken into consideration when the subject is debated.

#### 13 Rights of Policy and Performance Advisory Committee Members to Documents

- (a) In addition to their rights as Councillors, members of the Committee or Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Committee as appropriate depending on the particular matter under consideration.

#### 14 Members and Officers Giving Account

- (a) The Committee or a Panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance,.

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

- (b) Where any Councillor or Officer is required to attend the Committee or Panel under this provision, the Chair of that Committee or Panel will inform the Council's senior legal officer. The Council's senior legal officer shall inform the Councillor or Officer in writing giving at least five working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee or Panel. Where the account to be given to the Committee or Panel will require the production of a report, then the councillor or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances agreed by the relevant Director/Head of Service in respect of their staff or the Chief Executive in the case of Directors/Heads of Service and Group Leaders in the case of Councillors, the Councillor or Officer is unable to attend on the

required date, then the Committee or Panel shall, in consultation with the Councillor or Officer, arrange an alternative date for attendance.

#### 15 Attendance by Others

The Committee or Panel may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector in the area or whose work impinges upon the area and shall invite such people to attend.

#### 16 Call-in

- **16.1** The draft decisions of the Cabinet will be e-mailed to Councillors normally within three working days of the close of the meeting or the date of the draft decision as appropriate. In this rule and in rule 17 below "Cabinet" shall be read as including any Committee of the Cabinet or a decision made by a Cabinet Member or a key decision made by an officer with delegated authority from the Cabinet or under joint arrangements.
- **16.2** For non-urgent draft decisions made by the Leader or by a Cabinet Member, a copy of the officer report and decision-making proforma shall normally be emailed to the Leader/Cabinet Member and relevant Ward Councillor(s) three working days prior to the decision being made. In the case of urgent decisions made by the Leader or by a Cabinet Member, a copy of the report and proforma shall normally be emailed to the relevant Ward Councillor(s) at the same time as it is sent to the Leader/Lead Councillor.
- **16.3** Any Councillor is entitled to submit a request by email or fax setting out the reason why she/he wishes any such decision to be called in by the Policy and Performance Advisory Committee for consideration by a Panel (known as a 'Call-In Panel'). The request must be submitted to the Head of Democratic Services within three working days of the date of the email.
- **16.4** The Head of Democratic Services will transmit by email to all members of the Policy and Performance Advisory Committee a copy of the reason for requesting a review submitted by the Councillor. A notice invoking the call-in procedure must meet at least one of the following grounds in support of the request for call-in of a decision:
  - Inadequate consultation with stakeholders prior to decision;
  - Absence of adequate evidence on which to base a decision;
  - Decision would require a departure from or a change to, the agreed budget and policy framework;
  - Action decided upon would not be proportionate to the desired outcome;
  - Decision would be open to a human rights challenge;
  - Insufficient consideration of legal and financial advice; or

- Decision is not within Cabinet's powers or terms of reference or within the portfolio of the Leader or Portfolio Holder or member or Officer with delegated executive powers who took it.
- 16.5 Members of the Committee must decide within two working days whether they support the request for the decision to be reviewed and if they do so they should email a response to the Head of Democratic Services accordingly. If at least six members of the Committee are in favour of calling in the decision, the Chair of the Committee will call a meeting of a 'Call-In' Panel of the Committee within five working days where possible. The number of Councillors to serve on a Panel (which shall be politically proportionate except that either the Leader of a political group may decide to offer one of their Group's places to another Group or an Independent member) shall normally be five members unless otherwise determined by the Chair, with the Councillors being nominated by the respective Group Leaders.
- **16.6** The decision of the Cabinet will not be implemented until:
  - The time period in paragraph 16.5 has expired and six members of the Committee have not stated they are in favour of calling in the decision; or
  - (ii) A Panel of the Committee considers the matter and resolves not to intervene in the decision of Cabinet; or
  - (iii) A Panel of the Committee resolves to refer the matter back to Cabinet for further consideration and to take account of any recommendation of the Panel, in which case the Cabinet will reconsider the decision as soon as is reasonably practicable; or
  - (iv) In the case of any question relating to the budget or policy framework, the Panel of the Committee has reported to the meeting of the Council that will consider the budget or policy framework or any component part of it (if there is insufficient time for the matter to be referred back to the Cabinet).
- **16.7** Once a decision of the Cabinet has been referred to a Panel of the Committee it shall not be subject to further consideration by a Panel of the Committee or the Committee itself and shall not again be referred by any individual councillor.

# 17 Call-in and Urgency

(a) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent.
 Definition of Urgency: A decision will be urgent if, in the view of the decision-maker, any delay likely to be caused by the call in process would, for example, seriously prejudice the Council's or the public's interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person

or body, the decision is an urgent one, and therefore not subject to callin. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

(b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

# 18 The Party Whip

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

# 19 Procedure at Policy and Performance Advisory Committee Meetings

- (a) The Committee and its Panels (if any) shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (iii) responses of the Cabinet to reports of the Committee or its Panels; and
  - (iv) the business otherwise set out on the agenda for the meeting.
- (b) Where the Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
  - 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;
  - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

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# 20 Procedure at a Panel (excluding a 'Call-in' Panel)

- **20.1** A preliminary meeting will be held attended by the Councillors appointed to the Panel and any relevant Officers for the purposes of:
  - (a) Determining the overall content and scope of the issue, subject to any terms of reference already established by the Policy and Performance Advisory Committee;
  - (b) Agreeing the persons to be invited to answer questions and/or give evidence;
  - (c) Setting the approach to be taken (e.g. workshops, interviews, presentations, etc); and
  - (d) Scheduling sessions (e.g. full day, one or two half days).
- **20.2** A Panel shall normally meet as an internal working group.
- **20.3** Panel sessions shall normally include:
  - (a) Interviews, discussions, representations involving councillors, officers and external invitees as appropriate, followed by:
  - (b) Councillors debating the matter and making their findings and recommendations.
- **20.4** Paragraphs 19(a)(ii), 19(b) and 19(c) above shall apply to a Panel.
- **20.5** References to the rights of the Policy and Performance Advisory Committee to request councillors and officers to attend and to invite persons from outside the Council to attend (paragraphs 14 and 15 above) shall apply in respect of the proceedings of a Panel.
- **20.6** The relevant lead officer will be responsible for preparing the report and findings on behalf of the Panel.
- **20.7** The reports, findings and recommendations of a Panel shall be made public except where disclosure of information would be classed as either exempt or confidential.
- **20.8** In view of the short time scale for a Panel to consider decisions of Cabinet which are 'called-in' the Panel may choose not to follow the procedure set down in this paragraph with the exception of sub-paragraph 20.4.

# 21 Officer Support for the Policy and Performance Advisory Committee and Panels

**21.1** Committee Officers have a role in ensuring the efficient and effective operation of the process. So far as is practical (within a small team of

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committee staff) the roles of the Committee Officer attending this committee and the officer attending Cabinet will be kept separate and not be undertaken at any one time by the same person.

- **21.2** The Committee Officer attending this Committee will maintain an overview of the progress of its work, including whether recommendations of the Committee are approved (either in full or in part) by either the Cabinet or the Council.
- **21.3** The Committee Officer attending this Committee will not be expected to undertake detailed research or investigation on behalf of the Committee or Panel and such support will be drawn from the Council's resources as a whole. It is accepted that for a small Council like Lewes it is not feasible to provide the Committee or a Panel with a separate team of officer support. Officers must be able to provide impartial advice and support and feel free to do so without fear of any discrimination as a result.
- **21.4** With respect to the proceedings of a Panel, the Committee Officer attending the Committee shall co-ordinate invitations, venue and facilities. Other appropriate officers shall produce research and background documentation.
- **21.5** The arrangements for preparing the agenda for meetings of the Policy and Performance Advisory Committee will be as follows:
  - The Committee Officer attending Committee will draw up a menu of items drawing upon the work programme, outstanding issues or requests by the Committee and items referred by Cabinet or other Council bodies.
  - The menu will be the subject of informal discussion between the Chair and the relevant Director prior to issue of the formal agenda.

# Item I

# PART 4

# Financial Procedure Rules and Contract Procedure Rules in Part 4 and the Scheme of Delegation to Officers in Part 9

# Introduction

- In these Financial Procedure Rules, Contract Procedure Rules and in the Scheme of Delegation to Officers, "Designated Officer" means the Chief Executive, Director of Service Delivery, Director of Regeneration and Planning, Director of Tourism and Enterprise, Chief Finance Officer, Assistant Director – Human Resources and Transformation, Assistant Director – Legal and Democratic Services, Assistant Director for Corporate Governance or any properly appointed deputy or other Officer authorised to act for such Designated Officer.
- 2 For the avoidance of doubt, any function purported to be delegated to or exercisable by a Designated Officer of the Council, shall be deemed also to be delegated to the Chief Executive, who in the absence of that Delegated Officer on leave, through sickness, attendance at a conference or for any similar reason, shall authorise a substitute officer to act. The exception to this shall be the Deputy Chief Finance Officer when acting on behalf of the Chief Finance Officer under Section 151 of the Local Government Act 1972 and the Deputy Monitoring Officer when acting on behalf of the Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.
- **3** As an addition to the Financial Procedure Rules, the Council has adopted the following clauses as recommended by the Chartered Institute of Public Finance and Accountancy:
- **3.1** The Council will create and maintain, as the cornerstones for effective treasury management:
  - a treasury management policy statement, stating the policies, objectives and approach to risk management of 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 content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of CIPFA's Code of Practice, subject only to amendment where necessary to reflect the particular circumstances of the Council. Such amendments will not result in the Council materially deviating from the Code's key principals.

- **3.2** Full Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.
- **3.3** This Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with the Council's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
- **3.4** The Council nominates the Audit and Governance Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

# **LEWES DISTRICT COUNCIL**

# **FINANCIAL PROCEDURE RULES**

September 2019

# 1. INTRODUCTION

# **1.1** Role of the Chief Finance Officer (CFO)

- 1.1.1. Financial Procedure Rules are designed to maintain an acceptable standard of financial administration. They must be available to and followed by all Officers, Members and agents acting for the Council. Together with Standing Orders they regulate the conduct of the Council's business.
- 1.1.2. Section 151 of the Local Government Act 1972 requires every local authority "to make arrangement for the proper administration of their financial affairs and ensure that one of their officers has responsibility for the administration of those affairs". The officer designated by the Council as having the statutory responsibility set out in Section 151 is the Chief Finance Officer and the Deputy Chief Finance Officer is the designated deputy.
- 1.1.3. The Chartered Institute of Public Finance and Accounting (CIPFA) "Statement on the Role of the Chief Financial Officer (CFO) in Local Government 2016" defines the role of a CFO as:
  - a key member of the Leadership Team, helping it to develop and implement strategy and to resource and deliver the organisation's strategic objectives sustainably and in the public interest;
  - must be actively involved in, and able to bring influence to bear on, all
    material business decisions to ensure immediate and longer term
    implications, opportunities and risks are fully considered, and alignment
    with the organisation's financial strategy; and
  - must lead the promotion and delivery by the whole organisation of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.
- 1.1.4. To deliver these responsibilities the CFO:
  - must lead and direct a finance function that is resourced to be fit for purpose; and
  - must be professionally qualified and suitably experienced.

# **1.2 Financial Procedure Rules**

1.2.1. The Financial Procedure Rules provide the framework for the financial administration of the Council with a view to ensuring that financial matters are conducted in a sound and proper manner, constitute value for money and minimise the risk of legal challenge. Financial Procedure Rules are not intended to constitute a set of detailed rules to respond to every contingency.

- 1.2.2. All financial decisions and decisions with financial implications must have regard to proper financial control. Any doubt as to the appropriateness of a financial proposal or correctness of a financial action must be clarified in advance of the decision or action with the CFO.
- 1.2.3. Detailed procedure notes and other financial instructions may be issued from time to time by the CFO, where assistance is needed with the interpretation of Financial Procedure Rules.
- 1.2.4. Failure to observe Financial Procedure Rules (including any supplementary procedure notes and financial instructions), may result in action under the Council's disciplinary procedures.
- 1.2.5. These Financial Procedure Rules should be read in conjunction with the Contract Procedure Rules and the Scheme of Delegation.
- 1.2.6. The CFO is responsible for maintaining a continuous review of the Financial Procedure Rules and submitting any additions or changes necessary to the Council for approval. An annual review shall be undertaken.
- 1.2.7. The CFO is also responsible for reporting, where appropriate, breaches of the Financial Procedure Rules to the Council and/or to the Cabinet. The CFO is authorised to temporarily suspend Financial Procedure Rules in exceptional circumstances, and where such a suspension is authorised, a written record shall be kept of the reasons for this.
- 1.2.8. Directors, Assistant Directors and Heads of Service are responsible for ensuring that all staff in their Directorates/Services are aware of the existence and content of the Financial Procedure Rules and that they comply with them.

# **1.3 Responsibilities**

# To the Council

- 1.3.1. Councillors and employees of the Council are responsible for ensuring that they use the resources and assets entrusted to them in a responsible and lawful manner. They should strive to achieve value for money and avoid legal challenge to the Council.
- 1.3.2. These responsibilities apply equally to councillors and employees when representing the Council on outside bodies.

#### Personal

1.3.3. Any person charged with the use or care of Council resources and assets should make themselves aware of the Council's requirements under the Financial Procedure Rules. If anyone is in any doubt as to their obligations, then they should seek advice. Unresolved questions of interpretation should be referred to the CFO.

1.3.4. All employees must report immediately to their manager, supervisor or other responsible senior Officer any illegality, impropriety, serious breach of procedure or serious deficiency in the provision of services that they suspect or become aware of. Employees are able to do this without fear of recrimination providing they act in good faith via the Council's Whistle Blowing Policy. Compliance with the Council's Anti-Fraud and Corruption Strategy and the Code of Conduct for Officers is mandatory for all Officers.

## **Chief Finance Officer**

- 1.3.5. Section 114 of the Local Government Finance Act 1988 requires the CFO to report to Council, Cabinet, and the External Auditor if the Council, any of its committees, or any person holding any office or employment with the Council:
  - Has made, or is about to make, a decision which involves, or would involve, the authority incurring unlawful expenditure;
  - Has taken, or is about to take, unlawful action which has resulted, or would result, in a loss or deficiency to the Council; or
  - Is about to make an unlawful entry in the Council's accounts.
- 1.3.6. Section 114 of the 1988 Act also requires:
  - The CFO to nominate a properly qualified member of staff to deputise should they be unable to perform the duties under section 114 personally; and
  - The Council to provide the CFO with sufficient staff, accommodation and other resources, as are in his/her opinion sufficient to carry out his/her duties under Section 114.
- 1.3.7. The CFO has a range of general responsibilities, which underpin an overriding responsibility to ensure the proper administration of the financial affairs of the Council. These include:
  - Setting financial management standards and to monitor compliance with them;
  - Ensuring proper professional practices are adhered to, and to act as head of profession in relation to the standards, performance and development of finance staff throughout the Council;
  - Advising on the key strategic controls necessary to secure sound financial management; and
  - Ensuring that financial information is available to enable accurate and timely monitoring and reporting of financial and non-financial performance indicators.

# **Directors/ Assistant Directors and Heads of Service**

- 1.3.8. Directors/ Assistant Directors and Heads of Service are responsible for ensuring that the Financial Procedure Rules are observed throughout all areas under their control and shall:
  - Provide the CFO with such information and explanations as the CFO feels is necessary to meet their obligations under the Financial Procedure Rules;
  - Consult with the CFO and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred;
  - Ensure that Cabinet Councillors are advised of the financial implications of all significant proposals and that the financial implications have been agreed by the CFO;
  - Inform the CFO of failures of financial control resulting in additional expenditure or liability, or loss of income or assets;
  - Wherever any matter arises which may involve irregularities in financial transactions consult with the CFO and, if a serious irregularity is confirmed, the matter shall be reported to the Chief Executive, appropriate Cabinet Member and Assistant Director HR and Transformation; and
  - Ensure the legality of their Directorate/Service's actions.
- 1.3.9. Directors/ Assistant Directors and Heads of Service are also responsible for:
  - Promoting the financial management standards set by the CFO in their departments and to monitor adherence to the standards and practices, liaising as necessary with the CFO; and
  - Promoting sound financial practices in relation to the standards, performance and development of staff in their service areas.

# 2. FINANCIAL PLANNING

# 2.1. Budgeting

a) Budget Format

The budget format determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets limits at which funds may be reallocated.

# **CFO Responsibilities**

2.1.1. Advise Cabinet on the format and content of the budget to be approved by Council.

## **Directors/Assistant Directors and Heads of Service**

2.1.2. Comply with budgetary guidance provided by CFO.

## b) Budget and Medium-Term Planning

The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighted priorities. The budget is the financial expression of the Council's plans and policies. The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of Council. Budgets (spending plans) are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for a Council to budget for a deficit. Medium-term planning involves a cycle in which managers develop their own plans in conjunction with the CFO. As each year passes, another future year will be added to the Medium-Term Financial Strategy (MTFS). This ensures that the Council is always preparing for events in advance.

- 2.1.3. Prepare and submit reports on revenue budget forecasts to Cabinet, including resource constraints set by Government. Reports should take account of medium-term forecasts, where appropriate.
- 2.1.4. Determine detailed form of revenue budgets and the methods for preparation, consistent with the budget approved by Council, and after consultation with Cabinet, Directors/Assistant Directors and Heads of Service.
- 2.1.5. Prepare and submit reports to Cabinet on aggregate spending plans of service areas and on the resources available to fund them, identifying, where appropriate, implications for the level of taxation to be levied.
- 2.1.6. Advise on the medium-term implications of spending decisions and alternative options.
- 2.1.7. Work with Directors/Assistant Directors and Heads of Service, and all Council Officers, to identify opportunities to improve economy, efficiency and effectiveness, encouraging good practice financial appraisals of development or savings options, and in developing the financial aspects of service planning.

2.1.8. Advise Council on Cabinet proposals in accordance with responsibilities under Section 151 of the Local Government Act 1972.

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

- 2.1.9. Prepare detailed draft revenue budgets in consultation with the CFO, for submission to Cabinet and approval by Council.
- 2.1.10. Integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- 2.1.11. When drawing up draft revenue budgets, have regard to spending/income patterns and pressures, volatility to external influences, legal requirements, policy requirements, initiatives already underway and external grants and contributions.

# c) Capital Programme

Capital expenditure involves acquiring or enhancing fixed assets with long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.

- 2.1.12. Prepare capital budgets jointly with Directors/ Assistant Directors and Heads of Service and report them to Cabinet for approval. The Cabinet will make recommendations on the capital budgets and on any associated financing requirements to Council. Cabinet Member approval is required where a Director/ Assistant Director and Head of Service proposes to bid for or exercise additional borrowing, not anticipated in the Capital Programme (extra borrowing will create future commitments to financing costs).
- 2.1.13. Prepare and submit reports to Cabinet on projected income, expenditure and resources compared with approved budgets.
- 2.1.14. Issue guidance on capital schemes and controls e.g. revenue costs, project appraisal techniques. The definition of capital will be determined by the CFO, having regard to government regulations and accounting requirements.
- 2.1.15. Obtain Cabinet authorisation for individual schemes where estimated expenditure exceeds Capital Programme provision by more than 10% or £50,000 whichever is the lower (subject to minimum overspend of £5,000).

- 2.1.16. Comply with guidance on capital projects and controls issued by CFO.
- 2.1.17. Develop and implement asset management plans in conjunction with CFO.
- 2.1.18. Ensure that all capital projects have undergone a robust appraisal which has been approved by Financial and Legal Services, before being presented and discussed by the appropriate management group.
- 2.1.19. Prepare regular reports reviewing Capital Programme provisions for their services, and prepare a quarterly return of estimated final costs of schemes in the approved Capital Programme for submission to CFO.
- 2.1.20. Ensure adequate records are maintained for all capital contracts.
- 2.1.21. In consultation with the CFO, accelerate the progress of a scheme by deferring the start of another scheme in that year's programme or, if delays are occurring generally, may bring forward a scheme programmed to start in a later year.
- 2.1.22. Proceed with projects only when there is adequate provision in the Capital Programme, following Cabinet or Council approval, and with the agreement of the CFO where required. Cabinet can approve projects up to a cumulative value of £500,000 (General Fund) and £500,000 (Housing Revenue Account) in any one financial year. Projects that breach the £500,000 limits either alone or cumulatively require Council approval.
- 2.1.23. Prepare and submit reports, jointly with the CFO, to Cabinet, of any variation in contract costs greater than approved limits. The Cabinet may meet cost increases of up to 5% of the project by virement from identified savings arising from other projects within the capital programme.
- 2.1.24. Prepare and submit reports, jointly with the CFO, to Cabinet on completion of schemes where the final expenditure varies from the approved budget by more or less than 10% or £50,000 whichever is the lower (subject to minimum overspend/underspend of £5,000).
- 2.1.25. Ensure credit arrangements, such as leasing agreements, are not entered into without prior CFO approval, who will need to undertake an assessment of the type of lease arrangement being entered into and, if applicable, approval of the scheme through the Capital Programme.
- 2.1.26. Consult with the CFO and seek Cabinet approval where Director/ Assistant Director and Head of Service proposes to bid for Government approvals to support expenditure that has not been included in current year's Capital Programme.

# 2.2. Maintenance of Reserves

The Council must decide the minimum level of General Reserves it wishes to maintain before it can decide the level of Council Tax. Reserves are maintained as a matter of prudence. They enable the Council to provide for unexpected events and thereby protect it from overspending, should such events occur. There are also reserves earmarked for specific purposes.

# **CFO Responsibilities**

2.2.1. To advise Cabinet and/or Council on prudent levels of reserves for the Council, and to take account of the advice of CIPFA in this matter.

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

2.2.2. To ensure that reserves are used only for the purposes for which they were intended.

# 3. FINANCIAL MANAGEMENT

# **1.1 Managing Income and Expenditure**

# a) Budget Monitoring and Control

Proper budget management ensures that, once the budget has been approved by Council, allocated resources are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account, managers responsible for defined elements of the budget.

By continuously identifying and explaining variances against budget targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual revenue limit, approved when setting the annual budget. To ensure that the Council does not overspend in total, each service is required to manage its own income and expenditure within the budget allocated to it. For the purposes of budgetary control by managers, a budget will usually be the planned income and expenditure excluding support and capital charges, for a Department.

#### **CFO Responsibilities**

3.1.1. Submit reports to Cabinet and Council, in consultation with the relevant Director/ Assistant Director and Head of Service, where a Director/ Assistant Director and Head of Service's expenditure and resources are significantly outside the approved budgets under their control.

- 3.1.2. Prepare and submit quarterly reports on the Council's projected income and expenditure compared with the budget to the Cabinet.
- 3.1.3. Establish an appropriate framework of budgetary management and control that ensures that:
  - Budget management is exercised within the approved budget unless Cabinet approves a supplementary estimate;
  - Each Director/Assistant Director and Head of Service has timely information on income and expenditure on each budget which is sufficiently detailed to enable managers to monitor their budgetary responsibilities;
  - As a minimum, quarterly updates are held between a Head of Service, budget holder and their Finance representative;
  - Expenditure is committed only against the approved budget cost centre;
  - All Officers responsible for income and expenditure, comply with the relevant guidance and the Financial Procedure Rules;
  - Each cost centre has a single named manager, designated by the relevant Director/Assistant Director and Head of Service. As a general principle, budgetary responsibility should be aligned as closely as possible to the decision-making processes that commit expenditure; and
  - Significant variances from approved budget are investigated and reported by budget holders monthly and advised to the Strategic Management Team and Cabinet.
- 3.1.4. Administer the Council's Scheme of Virement (refer to subsection b) below).

- 3.1.5. Consult with CFO on any matter which is liable materially to affect the finances of the Council before any provision or other commitment is incurred and before reporting to Members.
- 3.1.6. Maintain budgetary control within their services, in adherence to the principles above, and to ensure that all income and expenditure is properly recorded and accounted for.
- 3.1.7. Ensure that an accountable budget holder is identified for each item of income and expenditure under the control of the Director/ Assistant Director and Head of Service (grouped together in a series of department codes). Budget responsibility should be aligned as closely as possible to the decision-making that commits the expenditure.

- 3.1.8. Ensure that spending remains within the service's overall budget limit, and that individual budget heads are not overspent, by monitoring and taking appropriate corrective action where significant variations from the approved budget are forecast and to report these to the CFO. This regulation shall also apply to any action or decision, which will give rise to a reduction in income.
- 3.1.9. Ensure that a monitoring process is in place to review performance levels in conjunction with the budget and is operating effectively within the guidelines set down by the CFO.
- 3.1.10. Obtain prior approval from the relevant Cabinet portfolio holder, Cabinet or Council, as appropriate, for new proposals (Supplementary Estimates) outside of the budget and policy framework in accordance with the following rules:

# Capital programme:

- If a supplementary estimate is less than 10% of the original budget estimate or £250,000 (whichever is the higher), obtain written approval of the Cabinet portfolio holder in consultation with the CFO and relevant Director/Assistant Director (if any). Make a record for audit purposes.
- If a supplementary estimate is greater than £250,000, obtain Cabinet approval
- If the cumulative Cabinet approvals in any single financial year will exceed £500,000 individually for the General Fund and/or the HRA, obtain Council approval.

Revenue Budget:

- If a supplementary estimate is £50,000 or less, obtain written approval of the Cabinet portfolio holder in consultation with the CFO and relevant Director/Assistant Director (if any). Make a record for audit purposes.
- If a supplementary estimate exceeds £50,000, obtain Cabinet approval
- If the cumulative Cabinet approvals in any single financial year will exceed £500,000 individually for the General Fund and/or the HRA, obtain Council approval"
- 3.1.11 Ensure compliance with Scheme of Virement (refer to subsection b) below).
- 3.1.12 Consult with the relevant Director/ Assistant Director and Head of Service, where it appears that a budget proposal, including a virement proposal, may impact on another service area or another Director/ Assistant Director or Head of Service's service activity, prior to any action being taken.

# b) Virement

A virement is the transfer between budgets that enables Cabinet, Directors, Assistant Directors and Heads of Service and their staff, to manage budgets with a degree of flexibility within the overall budget and policy framework determined by the Council, and therefore to optimise the use of resources.

- 3.1.13 The Scheme of Virement is administered by the CFO within guidelines set by Council and any variation from the Scheme requires Council approval.
- 3.1.14 Virement does not create additional overall budget liability and should not be used to create additional budget demand in future years.
- 3.1.15 Virement is not allowed:
  - From capital financing charges, interest credits, council tax and housing benefit payments and projects financed by external grants and contributions, corporate finance costs (e.g. bank charges), precepts etc. or internal recharges (e.g. departmental support service recharges); or
  - For a transfer of resources between funds or Capital projects.
- 3.1.16 Virement is only allowed from employee costs with the approval of the CFO and after consideration of the overall budget position on employees, since the budget anticipates savings on employee budgets from natural staff turnover.

#### **CFO Responsibilities**

3.1.17 Prepare, jointly, with the relevant Director/Assistant Director and Head of Service a report to Cabinet on proposed virements, where required under the Scheme.

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

- 3.1.18 Directors/Assistant Directors and Heads of Service may exercise virement on budgets under their control for gross amounts up to £30,000 in total (cumulative within a single financial year), within Departmental budgets or between Departmental budgets within the same Service budget (any combination thereof), following the approval of the CFO and subject to the conditions in paragraphs 3.1.19 to 3.1.22 below.
- 3.1.19 Amounts greater than £30,000 require Portfolio Holder approval, following a joint report by the CFO and the Director/Assistant Director and Head of Service, which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year. Each Cabinet Member has a cumulative limit of £250,000 per financial year.

- 3.1.20 Amounts greater than £250,000 require Cabinet approval. The Cabinet has a cumulative limit of £500,000 per financial year. Amounts greater than £500,000 require Council approval.
- 3.1.21 Prior Cabinet approval is required for any virement where it is proposed to:
  - vire between budgets of different accountable Cabinet Members; and
  - vire between budgets managed by different Directors/ Assistant Directors and Heads of Service.
- 3.1.22 Virements relating to a specific financial year should not be made after 31st March in that year.
- 3.1.23 Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
  - The amount is used in accordance with the purposes for which it has been established; and
  - Cabinet has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Cabinet.

#### c) Year-End Balances

The treatment of year-end balances is administered by the CFO within guidelines set by the Council. The rules below cover arrangements for the transfer of resources between accounting years, i.e. a carryforward.

#### Year – End Balances (carry forwards)

- 3.1.24 The Scheme of Carry-Forwards is administered by the CFO within guidelines set by Council and any variation from the Scheme requires Council approval.
- 3.1.25 The rules cover arrangements for transferring resources between accounting years (i.e. carry-forwards).

#### **CFO Responsibilities**

- 3.1.26 Administer the Scheme of Carry-Forwards within guidelines approved by Council:
  - Underspent Capital budgets at year-end will be carried forward in the Capital Programme automatically unless no longer required
  - Underspent Revenue budgets up to £30,000 on individual budgets may be carried forward with CFO approval

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- Underspent Revenue budgets in excess of £30,000 on individual budgets may be carried forward with Cabinet approval
- All underspent Revenue budgets approved to be carried forward will be retained in an earmarked reserve.
- 3.1.27 Report jointly with relevant Director/Assistant Director and Head of Service on all material overspends and underspends on service budgets carried forward to the Cabinet and to Council.

- 3.1.28 Underspends on service budgets up to £30,000 under the control of the Director/Assistant Director and Head of Service may be carried forward with prior CFO approval. Underspends over £30,000 require Cabinet approval.
- 3.1.29 Take account of Capital underspends carried forward into the following years Capital Programme.

# d) Emergency Expenditure

## The Council needs a procedure in place for meeting immediate needs if an emergency situation arises in the district.

- 3.1.30 The Chief Executive and CFO shall have authority to approve expenditure on items essential to meet immediate needs created by an emergency or which is referable to Section 138 of the Local Government Act 1972, subject to a subsequent report to Cabinet and/or Council depending on whether or not the expenditure can be met within the current budget framework.
- 3.1.31 The Leader or Deputy Leader (having received report from Chief Executive and CFO), shall have power to incur expenditure essential to meet immediate needs created by an emergency, or which is referable to Section 138 of the Local Government Act 1972 (or subsequent legislation) which is not otherwise authorised, or where it is necessary in the Council interest to settle legal proceedings. A subsequent report shall be submitted to Cabinet and/or Council, depending on whether or not the expenditure can be met within the current budget framework.
- 3.1.32 The CFO will ensure, retrospectively, the submission of a claim for reimbursement under the "Bellwin Scheme" for any eligible emergency costs incurred i.e. costs incurred on, or in connection with, immediate actions to safeguard life and property or to prevent suffering or severe inconvenience as a result of a disaster or emergency in the district. Grant is limited by Section 155 of the Local Government and Housing Act 1989 and local authorities are expected to have budgeted for a certain amount of emergency expenditure (the 'threshold').

# 4. FINANCIAL ACCOUNTING

# 4.1 Accounting Policies

The CFO is responsible for preparing the Council's Statement of Accounts, in accordance with proper practices as set out in the format required by the Code of Practice on Local Authority Accounting in the United Kingdom (the Code) issued by (CIPFA/LASAAC), for each financial year.

# **CFO Responsibilities**

4.1.1 Select suitable accounting policies and ensure they are applied consistently. Accounting policies are set out in the annual Statement of Accounts.

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

4.1.2 Adhere to accounting policies, timetables and guidelines approved by the CFO.

# 4.2 Accounting Records

Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for the stewardship of public resources. The Council has a statutory responsibility to prepare an annual Statement of Accounts that give a "true and fair view" of the financial position and transactions of the Council. The accounting records are subject to external audit. The audit provides assurance that the Statement of Accounts have been prepared properly, that proper accounting practices have been followed and that robust arrangements have been made for securing economy, efficiency and effectiveness in the use of Council resources.

- 4.2.1 Determine the accounting procedures and records for the Council. Where these are maintained outside of Financial Services, the CFO should consult the Director/Assistant Director and Head of Service concerned.
- 4.2.2 Arrange for the compilation of all accounts and accounting records under his or her direction.
- 4.2.3 Comply with the following principles when allocating accounting duties:
  - Separating the duties of providing information about sums due to or from the Council and calculating, checking and recording these sums from the duty of collecting or disbursing them; and
  - Employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

- 4.2.4 Ensure that claims for funds, including grants, are made by the due date.
- 4.2.5 Make proper arrangements for the audit of the Council's Statement of Accounts in accordance with the latest Accounts and Audit (England) Regulations.
- 4.2.6 Prepare and publish the Statement of Accounts for each financial year in accordance with the statutory timetable, and present audited Statements for approval by the Audit and Governance Committee before 31st July each year. Submit provisional outturn results for financial year to Cabinet as soon as practicable.
- 4.2.7 Ensure the retention of financial documents in accordance with the Council's Document Retention Policy.
- 4.2.8 Undertake or receive monthly reconciliations for all fundamental IT financial systems and sign off as evidence of CFO's review.

- 4.2.9 Consult and obtain the approval of the CFO before making changes to accounting arrangements, records and procedures.
- 4.2.10 Comply with segregation of duties principles outlined in Paragraph 4.2.3 when allocating accounting duties.
- 4.2.11 Maintain records that provide a management trail, leading from income/expenditure source through to the accounting statements, and carry out regular monthly reconciliations of fundamental IT financial systems to the Council's corporate financial management information system.
- 4.2.12 Supply information required to enable the Statement of Accounts to be completed by the statutory deadline of 31st May each year and in accordance with guidelines issued by the CFO.

# 4.3 Statement of Accounts

The Council has a statutory responsibility to prepare its own Statement of Accounts, which give a "true and fair view" of the financial position and transactions of the Council.

The Audit and Governance Committee is responsible for approving the statutory annual Statement of Accounts.

- 4.3.1 Select suitable accounting policies and to apply them consistently.
- 4.3.2 Make judgements and estimates that are reasonable and prudent.

- 4.3.3 Ensure compliance the CIPFA/LASAAC Accounting Code of Practice.
- 4.3.4 Sign and date the Statement of Responsibilities with the Statement of Accounts, stating it gives a true and fair view of the financial position and transactions of the Council (including group financial statements where applicable) at the year ended 31st March.
- 4.3.5 Draw up the timetable for final accounts preparation and to advise Officers and external auditors accordingly.

4.3.6 Comply with accounting guidance provided by the CFO and supply the CFO with information when required.

# 5. RISK MANAGEMENT AND CONTROL OF RESOURCES

# 5.1 Risk Management

All organisations, whether in the private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk Management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure its continued financial and organisational wellbeing. In essence it is an integral part of good business practice. Risk Management is concerned with evaluating the measures an organisation already has in place to manage perceived risks and then recommend the actions the organisation needs to take to control these risks effectively. The Audit and Governance Committee monitors the effective development and operation of Risk Management, and it is the overall responsibility of Cabinet to approve the Risk Management Strategy, and to promote a culture of risk management awareness throughout the Council.

- 5.1.1 Develop and maintain a Risk Management Strategy.
- 5.1.2 Develop and maintain a Risk Register.
- 5.1.3 Develop and promote a proactive and positive corporate Risk Management culture, including awareness and the implementation and maintenance of Risk Management controls.
- 5.1.4 Include all appropriate employees in suitable Fidelity Guarantee insurance cover.

5.1.5 Arrange suitable corporate insurance cover, through external insurance and internal funding, and negotiate claims for losses in consultation with other Officers, and partner organisations, where necessary.

## Directors/Assistant Directors and Heads of Service Responsibilities

- 5.1.6 Promote a proactive and positive Risk Management culture within service area, including raising awareness and the implementation and maintenance of Risk Management controls.
- 5.1.7 Show due regard to advice from specialist Officers (e.g. health and safety) and review risks through the Service Planning process at least quarterly.
- 5.1.8 Promptly notify CFO of all significant new risks, properties, vehicles or other assets that require insurance and of any alterations affecting existing insurances and to provide information when requested.
- 5.1.9 Immediately notify CFO of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the CFO or the Council's insurers.
- 5.1.10 Consult with the CFO and the Assistant Director Legal and Democratic Services on the terms of any indemnity that the Council is requested (or has offered) to give.
- 5.1.11 Ensure that employees, or anyone covered by Council insurance, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

# 5.2 Internal Controls

The Council is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives and to monitor compliance with statutory obligations.

The Council faces a wide range of financial, legal, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks and to protect the Council from the impact of uncertainties.

- 5.2.1 Assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.
- 5.2.2 Ensure an effective internal audit function is resourced and maintained.

- 5.2.3 Ensure that the Council has put in place effective arrangements for internal audit of the control environment and systems of internal control as required by professional standards and in line with CIPFA's Code of Practice.
- 5.2.4 Ensure an effective audit committee is developed and maintained.

- 5.2.5 Ensure that external auditors are given access at all reasonable times to premises, human resources, documents and assets which the external auditors consider necessary for the purposes of their work.
- 5.2.6 Ensure that all records and systems are up to date and available for inspection.
- 5.2.7 Review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the CFO. Directors/ Assistant Directors and Heads of Service should also be responsible for removing controls that are unnecessary or not cost or risk effective for example, because of duplication.
- 5.2.8 Ensure Officers have a clear understanding of the consequences of lack of control.

# 5.3 Audit Requirements

#### a) Internal Audit

The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". More specific requirements are set out in the Accounts and Audit Regulations 2015, which require the Council to "undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance."

#### **Chief Executive**

5.3.1 Ensure that the Chief Internal Auditor has direct access to and freedom to report in his or her own name and without fear or favour to the Chief Executive and the CFO, the Cabinet and the Audit & Governance Committee, all levels of management, Officers and elected Councillors. This should include the ability to meet the Chair of the Audit & Governance Committee alone (outside of the Committee meeting) and External Auditors to discuss significant concerns that they may have over the adequacy and effectiveness of internal controls and risk management activities.

# **CFO Responsibilities**

- 5.3.2 Implement appropriate measures to prevent and detect fraud and corruption and ensure that effective procedures are in place to investigate promptly any identified fraud or irregularity.
- 5.3.3 Report to Cabinet requesting additional funding where insufficient internal audit resources have been identified.

## **Chief Internal Auditor Responsibilities**

- 5.3.4 Ensure that Internal Audit has unrestricted access to all information (including records, computer files, property and personnel) and activities undertaken by the Council, and those of partner organisations and third party service providers where contract terms include Internal Audit access rights.
- 5.3.5 Assisting the CFO in discharging their responsibilities under Section 151 of the Local Government Act 1972 in relation to internal controls.
- 5.3.6 Providing and maintaining an Internal Audit function which meets the requirements of the Public Sector Internal Audit Standards (PSIAS).
- 5.3.7 Developing and delivering an Annual Audit Plan for the Council using a risk based methodology. Following consultation with the Chief Executive Officer, CFO and CMT, the Chief Internal Auditor will submit such plan to the Audit & Governance Committee for review and approval prior to the commencement of each financial year.
- 5.3.8 Providing an annual Internal Audit opinion, compliant with PSIAS requirements, which informs the Annual Governance Statement on how the Council's control environment, including risk management processes, accounting records, governance and value for money arrangements, established by management, are operating within the Council.
- 5.3.9 Issuing other reports which provide assurance to the Chief Executive, CFO, Monitoring Officer and the Strategic Management Team, and making recommendations for improvement.
- 5.3.10 Comply with any requests from the External Auditor or access to any information, files or working papers obtained or prepared during audit work that is required to discharge their responsibilities.
- 5.3.11 Reporting to the Chief Executive, CFO and the Audit and Governance Committee, if the Chief Internal Auditor concludes that resources are insufficient.

- 5.3.12 Ensure that Internal Audit are given access at all reasonable times to premises, human resources, documents and assets that the auditors consider necessary for the purposes of their work.
- 5.3.13 Ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- 5.3.14 Consider and respond promptly to recommendations/actions in Internal Audit reports.
- 5.3.15 Ensure that agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- 5.3.16 Notify the Chief Internal Auditor immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of Council property, assets or resources. Pending investigation and reporting, the Director/Assistant Director or Head of Service should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- 5.3.17 Ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Chief Internal Auditor prior to implementation.

#### b) External Audit

The Local Audit and Accountability Act 2014 ("the Act") sets out the framework for audit of local authorities. It replaces the provisions of the Audit Commission Act 1998 following the closure of the Audit Commission. The duties and responsibilities of external auditors are primarily set out in Part 5 of the Act and reflected in a Code of Audit Practice issued by the National Audit Office.

The Statement of Accounts is scrutinised by the external auditors, who must be satisfied that they give a "true and fair view" of the financial position and transactions of the Council (including any group financial statements where applicable) during the year and complies with all legal requirements.

- 5.3.18 Ensure that external auditors are given access at all reasonable times to premises, human resources, documents and assets that the external auditors consider necessary for the purposes of their work.
- 5.3.19 Ensure there is effective liaison between external and internal audit.

5.3.20 Work with the external auditor and advise Council, Cabinet and Directors/Assistant Directors and Heads of Service on their responsibilities in relation to external audit.

### Directors/ Assistant Directors and Heads of Service Responsibilities

- 5.3.21 Ensure that external auditors are given access at all reasonable times to premises, human resources, documents and assets which the external auditors consider necessary for the purposes of their work.
- 5.3.22 Ensure that all records and systems are up to date and available for inspection.

# 5.4 Preventing Fraud and Corruption

The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.

The Council's expectation of propriety and accountability is that Members and Officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The Council also expects that individuals and organisations, including partner organisations, suppliers, contractors and service providers with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

#### **Chief Executive Responsibilities**

5.4.1 Maintain adequate and effective internal control arrangements.

# **CFO Responsibilities**

5.4.2 Implement appropriate measures to prevent and detect fraud and corruption.

### **Chief Internal Auditor Responsibilities**

- 5.4.3 Develop and maintain a comprehensive Anti-Money Laundering Strategy.
- 5.4.4 Develop and maintain a comprehensive Anti-Fraud and Corruption Strategy.
- 5.4.5 Report all suspected irregularities (as appropriate) to the Chief Executive, the CFO, and the Audit & Governance Committee.

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

- 5.4.6 Ensure that all suspected irregularities are reported to the Chief Internal Auditor without delay.
- 5.4.7 Instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

- 5.4.8 Ensure that where financial impropriety is discovered, the CFO and Chief Internal Auditor are informed as soon as possible, and where sufficient evidence exists to believe that a criminal offence may have been committed, this will be investigated by Counter Fraud Officers of the councils.
- 5.4.9 Maintain a Register of Interests' for both Councillors and Officers.

# 5.5 Assets

### a) Security of Property

The Council holds assets in the form of property, vehicles, plant, software, equipment other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

### **CFO Responsibilities**

- 5.5.1 Maintain an Asset Register in accordance with good practice for all fixed assets with a value in excess of £10,000. The function of the Asset Register is to provide the Council with information about fixed assets so that they are safeguarded, used efficiently and effectively and adequately maintained.
- 5.5.2 Receive and process information required for accounting, costing and financial records from each Director/ Assistant Director and Head of Service.
- 5.5.3 Ensure that assets are valued in accordance with the Code issued by (CIPFA/LASAAC).
- 5.5.4 Issue guidelines on best practice ("Local Authority Assets: Disposal Guidance DCLG March 2016") for asset disposals.
- 5.5.5 Ensure appropriate accounting entries are made to remove the value of asset disposals from the Council's records, including the proceeds of sale where appropriate.
- 5.5.6 (Independently) review and authorise proposed stock write-offs (including obsolete and surplus stock) submitted by Directors/ Assistant Directors Heads of Service, within predetermined limits. Values in excess of predetermined limits should be forwarded for approval by the Portfolio Holder for Finance and/or Cabinet as appropriate.

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

5.5.7 Notify the CFO immediately of any additions/disposals/variations to the Asset Register. Any use of property by a service area or establishment, other than for direct service delivery, should be supported by documentation identifying terms, responsibilities and duration of use.

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- 5.5.8 Arrange for the valuation of assets for accounting purposes to meet requirements specified by the CFO.
- 5.5.9 Recommend surplus land and buildings for sale to the Asset Management Group (AMG), followed by a joint report prepared by the relevant Director/ Assistant Director and Head of Service and the CFO to Cabinet.
- 5.5.10 Follow best practice guidelines for asset disposals, issued by the CFO.
- 5.5.11 Ensure prospective occupiers of Council land are not allowed to take possession or enter until a lease or agreement (in a form approved by the Director/ Assistant Director and Head of Service in consultation with the Assistant Director Legal and Democratic Services) has been established as appropriate.
- 5.5.12 Ensure security of buildings and other assets, including vehicles, plant, equipment, furniture, stock, stores and other property, within service area. Consult CFO where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 5.5.13 Pass title deeds to Assistant Director Legal and Democratic Services, for safe custody. The Head of Operations must keep a record of all properties owned by the Council, recording Portfolio, the purpose for which it is held, the location, the plan reference, purchase details, particulars of interest and rent payable, and particulars of tenancies granted.
- 5.5.14 Ensure that cash holdings on premises are kept within insurance limits (determined by CFO) and keys to safes and similar receptacles are carried on the person of those responsible at all times. Loss of any such keys must be reported to the CFO immediately.
- 5.5.15 Ensure all employees are aware of their personal responsibility to protect and retain the confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council.

# Inventories

- 5.5.16 Maintain an Inventory List within service area, recording descriptions of any furniture, fittings, equipment, plant and machinery, with individual values of £75 or more. The Risk and Insurance Manager must be notified if the value of a single item exceeds £10,000.
- 5.5.17 Carry out annual check of all significant inventory items to verify location, condition and take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Portable items such as computers, cameras and video recorders should be identified with Council security markings.

5.5.18 Make sure that property is only used in the course of Council business, unless the Director/ Assistant Director and Head of Service concerned has given permission otherwise.

### Stocks and Stores

- 5.5.19 Make appropriate arrangements for the care and custody of stocks and stores within service area.
- 5.5.20 Maintain stocks at reasonable levels and ensure regular (minimum quarterly) independent physical stock checks. Stock discrepancies should be immediately investigated and pursued to a satisfactory conclusion.
- 5.5.21 Recommend stock write-offs (including obsolete and surplus stock) by submitting proposal in writing to CFO (seeking advice from purchasing advisors where appropriate).

# 5.6 Treasury Management, Banking and Petty Cash

Millions of pounds pass through Councils' accounts each year. This has led to the establishment of CIPFA's "Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes" (the Code).

The Code aims to provide assurance that Council money is properly managed in a way that balances risk with return, with overriding consideration given to the security of capital sums.

Banking arrangements and petty cash should also be managed appropriately with key responsibilities confined to the CFO and a limited number of authorised individuals.

- 5.6.1 Undertaking borrowing and investment activities in full compliance with CIPFA's "Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes". Any other lending or borrowing cannot be undertaken without the approval of Council, following consultation with the CFO.
- 5.6.2 Ensuring that all borrowing and investing activities are undertaken in the name of the Council (or nominee approved by Council) and detailed records/registers maintained and appropriate arrangements are made for the safe custody of all securities and title deeds.
- 5.6.3 Arranging and administering banking arrangements, including negotiate banking arrangements, opening accounts, signing Direct Debit mandates, ordering cheque books and arranging BACS payments.
- 5.6.4 Along with the Chief Executive, signing bank mandates authenticating the signatures of Officers designated as cheque signatories, and signatories for other instruments for the payment, collection or transfers of monies. All

cheques must bear the signature of two authorised Officers of the Council and dispatched directly from the CFO (or his or her staff) to payees.

- 5.6.5 Making arrangements with the bank for the issue of corporate Purchasing Cards.
- 5.6.6 Developing, maintaining and disseminating a detailed Purchasing Card Policy, ensuring that all card holders sign their acceptance of its terms and conditions.
- 5.6.7 Developing and operating a Petty Cash Imprest system (including a set of CFO prescribed rules), which balances operational need with efficiency and appropriate cash control measures.

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

- 5.6.8 Following instructions on banking and purchase cards issued by the CFO.
- 5.6.9 Utilising Purchasing Cards in accordance with the corporate Purchasing Card Policy. Cardholders must formally sign to indicate their acceptance of the Policy, prior to usage.
- 5.6.10 Ensure Trust Funds are held in the Council's name wherever possible. Officers acting as Trustees, due to their official position, must deposit securities etc. relating to the Trust with the CFO, unless the deed otherwise provides.
- 5.6.11 Ensure Trust Funds are operated within relevant legislation and the specific requirements for each Trust. Secure administration arrangements must be approved by the CFO.
- 5.6.12 Ensure employees within service area operate Petty Cash Imprest system in compliance with CFO prescribed rules.

# 6 FINANCIAL SYSTEMS AND PROCEDURES

Service areas have many systems and procedures relating to the control of the Council's assets, including purchasing, costing and management systems. Service areas are increasingly reliant on ICT for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed, errors detected promptly and system reconciliations completed and evidenced monthly.

The CFO has a professional responsibility to ensure that Council financial systems are sound and should therefore be consulted at an early stage in the process prior to the implementation of any new developments or changes/upgrades to existing systems.

# **CFO Responsibilities**

- 6.1.1 Make arrangements for the proper administration of the Council's financial affairs, including:
  - Issuing advice, guidance and procedures for Officers and others acting on the Council's behalf
  - Determining the accounting systems, form of accounts and supporting financial records
  - Establishing arrangements for audit of the Council's financial affairs
  - Approving any new financial systems to be introduced; and
  - Approving any changes to be made to existing financial systems.

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

- 6.1.2 Comply with procedures and guidance issued by the CFO.
- 6.1.3 Ensure that accounting records are properly maintained and held securely.
- 6.1.4 Ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements set out in the approved Document Retention Policy.
- 6.1.5 Ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- 6.1.6 Incorporate appropriate controls to ensure that, where relevant:
  - All input is genuine, complete, accurate, timely and not previously processed
  - All processing is carried out in an accurate, complete and timely manner
  - Output from the system is complete, accurate and timely; and
  - Output is reconciled, at least monthly, to the Council's general ledger and signed off by the preparer and reviewer of the reconciliation.
- 6.1.7 Ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- 6.1.8 Ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.

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- 6.1.9 Ensure systems are documented and Officers trained in operations.
- 6.1.10 Consult with CFO before changing existing financial systems or introducing new financial systems.
- 6.1.11 Establish a scheme of delegation identifying Officers authorised to act upon the Director/Assistant Director and Head of Service's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- 6.1.12 Supply lists of authorised Officers, with specimen signatures and delegated limits, to the CFO, together with any subsequent variations.
- 6.1.13 Ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Where possible, back-up information should be retained in a secure location, preferably off site or at an alternative location within the building.
- 6.1.14 Ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- 6.1.15 Ensure relevant standards and guidelines for computer systems issued by Directors/Assistant Directors and Heads of Service are observed.
- 6.1.16 Ensure computer equipment and software is protected from loss and damage through theft, vandalism etc.
- 6.1.17 Comply with the copyright, designs and patents legislation. In particular, ensure that only software legally acquired and installed by the Council is used on its computers.

# 6.2 Income and Expenditure

#### a) Income

Income can be a vulnerable resource and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and properly banked. It is preferable to obtain income in advance of supplying goods or services as this improves cash flow and avoids the time and cost of administering debts.

#### **CFO Responsibilities**

- 6.2.1 Agree arrangements for the collection of income due to the Council and approve the procedures, systems and documentation for its collection.
- 6.2.2 Periodically issuing guidance on charging policy, including key principles on fees and charges (e.g. full cost recovery and benchmarking), taxation and inflationary assumptions

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- 6.2.3 Order and supply to service areas receipt forms, books or tickets and similar items and satisfy themselves regarding control arrangements.
- 6.2.4 Agree the write-off of bad debts (in consultation with the relevant Director/ Assistant Director or Head of Service) up to £15,000 in value in each case and refer sums in excess of this limit, but up to £100,000, to the Cabinet Member for Resources for approval. Individual sums to be written off that exceed £100,000 require Cabinet approval.
- 6.2.5 Keep records of all sums written off and ensure appropriate accounting adjustments are made.
- 6.2.6 Ensure that refunds are not made for sums under £5.00, unless specifically requested by the individual.

- 6.2.7 Establish charging policy for the supply of goods or services in accordance with guidance issued by the CFO, reviewing it regularly, in line with corporate policies.
- 6.2.8 Separate responsibility for identifying amounts due and responsibility for collection, as far as is practicable.
- 6.2.9 In consultation with the CFO, establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- 6.2.10 Issue official receipts for all cash transactions (except where a legal document is the receipt for money received) and maintain other documentation for income collection where receipts are not required.
- 6.2.11 Ensure wherever practical that at least two employees are present when post is opened at a site where income is regularly received.
- 6.2.12 Securely hold receipts, tickets and other records of income in accordance with Document Retention Policy.
- 6.2.13 Lock away all cash to safeguard against loss or theft, and to ensure security of cash handling.
- 6.2.14 Ensure income is paid promptly and fully into Council bank account in the form in which it is received. Appropriate details should be recorded to provide a full audit trail. Money collected and deposited must be reconciled to bank account on a monthly basis (minimum).
- 6.2.15 Ensure income received is not used to cash personal cheques or make any other payments.

- 6.2.16 Supply CFO with details relating to work done, goods supplied, services rendered or other amounts due, to enable the CFO to record correctly the sums due to the Council and to ensure accounts are sent out promptly. To do this, Directors/Assistant Directors and Heads of Service should use established debt recovery systems to monitor the recovery of income and flag up areas of concern to the CFO. Heads of Service have a responsibility to assist the CFO in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf.
- 6.2.17 Keep a record of every transfer of money between employees of the Council. The receiving Officer must sign for the transfer and the transferor must retain a copy.
- 6.2.18 Recommend debts for write-off to the CFO and keep a record of all sums written off. Once raised, bona fide debts must not be cancelled, except by full payment or by formal write off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt, a waiver or reduction in charges.
- 6.2.19 Where delegated authority has been granted by the CFO, individuals can write-off bad debts up to their specified limit in each case (Note delegated authority must be exercised in strict observance of 'separation of duties' principles; referred to above in Paragraph 6.2.8). Sums in excess of their limit must be referred to the CFO for approval, who in turn will seek Cabinet Member approval for write-off of bad debt exceeding £15,000 in line with Paragraph 6.2.4 above.
- 6.2.20 Notify CFO of outstanding income relating to the previous financial year as soon as possible after 31st March in line with timetable determined by the CFO, and not later than 10th April or nearest working day thereafter.

#### b) Ordering and paying for work, goods and services

Public money should be spent with demonstrable probity and in accordance with Council policies. Councils have a statutory duty to achieve best value, in part through economy and efficiency. Council procedures should help to ensure that services obtain value for money from their procurement arrangements. These procedures should be read in conjunction with the Council's Contract Procedure Rules.

- 6.2.21 Officers and Members engaged in contractual or procurement decisions on behalf of the Council have a responsibility to declare links or personal interests that they may have with purchasers, suppliers and/or contractors, in accordance with appropriate codes of conduct.
- 6.2.22 Official orders must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments such as rent or rates, corporate purchasing card purchases, petty cash purchases or

other exceptions specified by the CFO. Any order placed by telephone shall be confirmed by the issue of an official order within 5 working days.

- 6.2.23 Purchase orders must conform to guidelines approved by Council for the procurement of goods, services and suppliers. Standard terms and conditions must not be varied without the prior CFO approval.
- 6.2.24 The normal payment method will be by BACS payment direct to the customer, drawn on the Council bank account, approved by the CFO. Direct debits will require prior CFO agreement, or a designated bank signatory, before any agreement is signed. Purchasing card payments may be made by Officers preauthorised by the CFO and identified on the Authorised Signatory List. VAT receipts for all goods must accompany monthly statements submitted to the CFO. Spending limits will be set/approved the CFO.
- 6.2.25 Official orders must not be raised for personal or private purchases, nor must personal or private use be made of Council contracts.

#### **CFO Responsibilities**

- 6.2.26. Ensure Council financial systems and procedures are sound and properly administered, approving changes to existing systems (whether new systems or upgrades) before implementation.
- 6.2.27. Approve the form of official orders and associated terms and conditions.
- 6.2.28. Make payment from Council funds on Directors/Assistant Directors and Heads of Service authorisations that expenditure has been duly incurred in accordance with Financial Procedure Rules.
- 6.2.29. Make payment (irrespective of budget provision) where it is required by statute or court order.
- 6.2.30. Arrange for the keeping of a Contract Register where contracts provide for payment by instalments.
- 6.2.31. Make payments to contractors upon receipt of properly completed certificates from Directors/Assistant Directors and Heads of Service. Such payments must be entered and appropriately cross referenced in the Contract Register.
- 6.2.32. Provide advice and encouragement on making payments by the most economical means.

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

6.2.33. The Assistant Director - Legal and Democratic Services will determine the form of contract to be used for building, constructional or engineering work.

- 6.2.34. Ensure that all contract variations are in writing and agreed before work on the variation commences.
- 6.2.35. Refer claims from contractors on matters not clearly within existing contract terms to Assistant Director Legal and Democratic for consideration of Council liability and to the CFO for financial consideration, before settlement is reached.
- 6.2.36. Take appropriate action, in consultation with Assistant Director Legal and Democratic, in respect of any claim for liquidated and ascertained damages where contract completion is delayed. This provision will not apply if there are reasons qualifying for an extension.
- 6.2.37. Ensure that unique Cafi generated official orders are used for all goods and services, other than the exceptions specified in Paragraph 6.2.22.
- 6.2.38. Ensure orders are only used for goods and services provided to the relevant service area. Members and Officers must not use official orders to obtain goods or services for private use. Neither may Officers place orders for goods or services for personal use using the Council's e-procurement system.
- 6.2.39. Ensure that only staff authorised by Directors/Assistant Directors and Heads of Service authorise orders and maintain an up-to-date list of such authorised staff, including specimen signatures, identifying the limits of their authority. The authoriser of the order should be satisfied that works, goods, supplies and services ordered are appropriate and needed, that there is adequate budgetary provision and that Contract Procedure Rules have been followed.
- 6.2.40. Ensure that works, goods, supplies and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different Officer from the authoriser of the order. Entries should then be made in inventories or stores records where appropriate.
- 6.2.41. Ensure payment is not made unless a proper VAT invoice or equivalent has been received, checked, coded and certified for payment.
- 6.2.42. Ensure a minimum of two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different Officer from the person who signed the order, and in every case, a different Officer from the person checking a written invoice, should authorise invoices.
- 6.2.43. Periodically review a list of their staff approved to authorise invoices. New authorising Officers, together with specimen signatures, and details of their authority limits, must be forwarded to the CFO.
- 6.2.44. Ensure that payments are not made on photocopied or faxed invoices, statements or other documents. Any instances of these being rendered

should be reported to the Chief Internal Auditor. In exceptional circumstances, where payment is made against such a document and where properly authenticated, the transaction must be processed in accordance with CFO guidance.

- 6.2.45. Encourage suppliers to accept payment by the most economical means for the Council. Payments made by Direct Debit must have the prior approval of the CFO or an authorised bank signatory.
- 6.2.46. Ensure service area achieves value for money by taking appropriate steps to obtain competitive prices for works, goods, supplies and services of appropriate quality, in line with best practice guidelines issued by the CFO, consistent with best value principles and contained within the Contract Procedure Rules.
- 6.2.47. Utilise the Procurement Team in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with Contract Procedure Rules.
- 6.2.48. Ensure that employees are aware of the Code of Conduct (Part 5 of the Constitution).
- 6.2.49. Ensure that loans, leases or rental arrangements are not entered into without prior CFO agreement. This is to protect the Council against entering into unapproved credit arrangements that might adversely affect financial standing and to ensure that value for money is being obtained.
- 6.2.50. Notify CFO of outstanding committed expenditure relating to previous financial year as soon as possible after 31st March in line with timetable determined by CFO and, in any case, not later than 10th April.
- 6.2.51. With regard to construction contracts and alterations to buildings and for civil engineering works, to document and agree with CFO the systems and procedures to be adopted in relation to all financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedure for validation of subcontractors' tax status.
- 6.2.52. Notify the CFO immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- 6.2.53. Ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the Document Retention Policy.

## c) Payments to employees and Members

Staff costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' Contract of Employment. It is also

important that all payments are accurately and completely recorded and accounted for and that Member allowances are authorised in accordance with the scheme adopted by Council.

#### **CFO Responsibilities**

- 6.2.54. Ensure appropriate arrangements are in place to control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by them, on the due date.
- 6.2.55. Record and make arrangements for the accurate and timely payment of tax, pension contributions and other deductions and to complete all relevant HMRC returns.
- 6.2.56. Make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- 6.2.57. Make arrangements for paying Members travel or other allowances upon receiving the prescribed documentation, duly completed and authorised.
- 6.2.58. Provide advice and encouragement to secure payment of salaries by the most economical means.
- 6.2.59. Ensure that there are adequate arrangements for administering pension matters on a day-to-day basis.
- 6.2.60. Act as an advisor on areas such as taxation and monitoring of the East Sussex County Council Pension Fund, as appropriate.

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

- 6.2.61. Ensure that appointments are made in accordance with the regulations of the Council and the approved Establishment List, grades and scale of pay and that adequate budget provision is available.
- 6.2.62. Notify the Head of Human Resources of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Head of Human Resources.
- 6.2.63. Ensure that adequate and effective systems and procedures are operated, so that:
  - Payments are only authorised to bona fide employees
  - Payments are only made where there is a valid entitlement
  - · Conditions and contracts of employment are correctly applied; and
  - Employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.

- 6.2.64. Provide and maintain an up-to-date list of the names of Officers authorised to complete and return records to the Head of Human Resources, together with specimen signatures, where appropriate. The CHRIS HR system should contain update lists of Human Resources Officers and Officers authorised to approve timesheets and claims.
- 6.2.65. Ensure that payroll transactions are processed only through the payroll system. Directors/Assistant Directors and Heads of Service should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis and take advice from the Head of Human Resources.
- 6.2.66. Approve travel and subsistence claims and other allowances, but only when they have been made on an approved travel expenses form and within three months of the travel or subsistence being incurred. Approval is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Head of Human Resources is informed where appropriate.
- 6.2.67. Ensure that the Head of Human Resources is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- 6.2.68. Ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the Document Retention Policy.
- 6.2.69. The Head of Human Resources to act as an advisor to Directors/Assistant Directors and Heads of Service on areas such as employment status, National Insurance and Pension Contributions, as appropriate.
- 6.2.70. Ensure that the staffing budget is an accurate forecast of staffing levels in accordance with the approved Establishment List and is equated to an appropriate revenue budget provision (including on-costs and overheads).
- 6.2.71. Ensure the Chief Executive (or the Officer delegated by them) has approved any changes in employment conditions where the full year cost of such changes would exceed £1,000.
- 6.2.72. Monitor staff activity to ensure adequate control over costs such as sickness, overtime, training and temporary staff.
- 6.2.73 Ensure that the staffing budget is not exceeded without prior authority from the CFO / Head of Human Resources and that it is managed to enable the agreed level of service to be provided.
- 6.2.74. Ensure that the Head of Human Resources and the CFO are immediately informed if the staffing budget is likely to be significantly overspent or underspent.

#### Member Responsibilities

6.2.75. Submit claims for Member travel and subsistence allowances on a monthly basis (or within three months of incurring the travel or subsistence) and, in any event, within one month of year end.

## 6.3 Taxation

The Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all Officers to be aware of their role. The creation and use of Local Authority Trading Companies (LATC's), has resulted in added Tax considerations, including Corporation Tax and 'different VAT rules'.

#### **CFO Responsibilities**

- 6.3.1. Complete Council VAT returns and annual Partial Exemption calculations in accordance with HMRC timescales.
- 6.3.2. Discharge Tax related responsibilities for Council-owned trading companies (LATCs), including all Corporation Tax and VAT duties and returns.
- 6.3.3. Provide details to the HMRC regarding the Construction Industry Scheme (CIS).
- 6.3.4. Maintain up-to-date guidance for Council employees on taxation issues.

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

- 6.3.5. Ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations.
- 6.3.6. Ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary CIS requirements.
- 6.3.7. Ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- 6.3.8. Follow the guidance on taxation issued by the CFO.

# 6.4. Trading Accounts and Business Units (including Local Authority Trading Companies)

Trading accounts and business units have been growing in importance for many years as local councils have progressively developed a more commercial culture. Under proper accounting practices, Councils are required to keep trading accounts for services provided on a basis other than a straightforward recharge of cost in accordance with the Accounting Code of Practice.

Ongoing reductions in Government support is further increasing the rate of 'council commercialisation'. Councils are seeking ever more innovative ways to achieve financial self-sufficiency, with legislative changes (notably the introduction of a "general power of competence" under Section 1 of the Localism Act 2011) aiding the proliferation of local authority trading companies.

#### **CFO Responsibilities**

- 6.4.1. Advise on the establishment and operation of trading accounts and business units.
- 6.4.2. Advise on the establishment and operation of local authority trading companies, including the professional financial appraisal of proposed commercial investments, projects and trading opportunities.
- 6.4.3. Prepare financial statements for local authority trading companies in accordance with relevant proper accounting practice.
- 6.4.4. Ensure compliance with all relevant extant companies and tax legislation in respect of local authority trading companies, including the preparation of taxation and other financial returns.
- 6.4.5. Arrange and maintain adequate insurance cover for local authority trading companies, where appropriate.

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

- 6.4.6. Follow CFO advice on the establishment and operation of trading accounts and business units.
- 6.4.7. Follow CFO advice on the establishment and operation of local authority trading companies. In particular, it is essential that the robustness of all commercial proposals is established through CFO input at the concept and development stage(s).
- 6.4.8. Consult with the CFO where a business unit wishes to enter into a third party contract where the contract expiry date exceeds the remaining life of their main contract with the Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
- 6.4.9. Ensure that appropriate accounting principles (as guided by the CFO) are applied in relation to Council trading accounts, and statutory accounts required for trading companies, including any tax implications, where applicable.
- 6.4.10. Ensure that each business unit and trading company prepares an annual business plan.

## 7. EXTERNAL ARRANGEMENTS

Partnerships- Partnerships can exist in many forms and play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Councils are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Councils still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user and community wishes.

Councils will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Councils will be measured by what they achieve in partnership with others.

Jointly Controlled Operations (JCO's) are activities undertaken by the Council in conjunction with partners that involve the use of assets and resources of the partners, rather than the establishment of a separate entity.

- 7.1.1. A partner is defined as either:
  - (a) An organisation (private or public) undertaking, part funding or participating as a beneficiary in a project; or
  - (b) A body whose nature or status gives it a right or obligation to support the project

## **CFO Responsibilities**

- 7.1.2. Advise on effective controls and the key elements of entering into any partnership, including JCO's, to ensure that resources are not wasted. Examples include, but are not limited to:
  - (a) A scheme appraisal for financial viability in both the current and future years, together with capital/revenue cash flow forecasts for at least three years
  - (b) Risk appraisal and management
  - (c) Resourcing, including taxation / VAT issues
  - (d) Audit, security and control requirements
  - (e) Carry-forward arrangements; and
  - (f) Ensure that an annual business plan is prepared.

7.1.3. Ensure that the partnership accounting and governance arrangements comply with all relevant regulations and codes of practice.

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

- 7.1.4. Ensure that, before entering into any agreement with external bodies, including the terms of operation, the CFO is consulted and the Cabinet approval is obtained.
- 7.1.5. Maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the CFO.
- 7.1.6. Ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the CFO.
- 7.1.7. Ensure that arrangements are in place for cessation of a partnership, including an exit strategy.
- 7.1.8. Ensure that such agreements and arrangements do not impact adversely upon existing Council services.
- 7.1.9. Ensure that all agreements and arrangements are properly documented.
- 7.1.10. Provide appropriate information to the CFO to determine if any requirement for a note to be entered into the Council's Statement of Accounts in accordance with relevant accounting Codes of Practice is required.

## 7.2 External Funding

External funding is an important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Councils are increasingly encouraged to provide seamless service delivery through working closely with communities, other agencies and private service providers.

In some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall corporate/spending plans.

## **CFO Responsibilities**

- 7.2.1. Ensure that arrangements are approved in advance by Cabinet.
- 7.2.3. Ensure that funding notified by external bodies is received and properly recorded in the Council's accounts.
- 7.2.4. Ensure that match-funding requirements are considered prior to entering into agreements and that future revenue budgets reflect these requirements.

7.2.5. Ensure that internal and external audit requirements are met.

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

- 7.2.6. Ensure that the CFO is consulted prior to the completion of all applications for external funding and is provided with a written copy of all grant approvals, together with grant and auditing conditions, and that all claims for funds are made in conjunction with Finance staff and submitted by the due date.
- 7.2.7. Ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.
- 7.2.8. Records of achievements against key targets to be met must be maintained for both financial and Non-Financial indicators.
- 7.2.9. Documentation must be made available for access by either internal and/or external audit where required.
- 7.2.10. To ensure that the retention and archiving of records complies with the conditions and requirements of the funding body.

## 7.3 Working with Third Parties

Legislation has enabled the Council to provide a range of services to other bodies for some time. Such work may enable a unit to maintain economies of scale and existing expertise. Such services may increasingly be delivered through local authority trading companies.

Whatever service-delivery arrangements are used (either 'in house' or through a company), robust procedures should be in place to ensure that any risks associated with such work are minimised, and that such work is legal.

#### **CFO Responsibilities**

- 7.3.1. Advise on appropriate service delivery arrangements for third party working proposals.
- 7.3.2. Where work is to be delivered through a trading company, ensure compliance with the Rules in respect of that.
- 7.3.3. Issue guidance with regard to the financial aspects of third party contracts.
- 7.3.4. Provide financial information in order for the relevant Director/Assistant Director and Head of Service to monitor the contract.
- 7.3.5 Arrange and maintain adequate insurance cover for third party contracts through corporate policy, where appropriate.

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

- 7.3.6. Follow CFO advice on appropriate service delivery arrangements for third party working proposals.
- 7.3.7. Where work is to be delivered through a trading company, ensure compliance with the Rules in respect of that.
- 7.3.8. Ensure that potential proposals are properly costed in advance in accordance with CFO guidance. It is essential that no contract is subsidised by the Council.
- 7.3.9. Ensure Cabinet approval is obtained before negotiations are concluded to work for third parties.
- 7.3.10. Maintain third party contracts register in accordance with procedures specified by CFO and ensure all contracts are properly documented.
- 7.3.11. Ensure that, wherever possible, payment is received in advance of service delivery, but in any event, payments must be promptly paid in accordance with the contract.
- 7.3.12. Ensure service area has the appropriate expertise to undertake the contract.
- 7.3.13. Ensure contracts do not adversely impact on services provided for the Council.
- 7.3.14. Provide appropriate information to CFO to determine any Accounting Code of Practice requirements.

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# Item J

## Part 4

## CONTRACT PROCEDURE RULES

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#### 1. INTRODUCTION

#### 1.1. BASIC PRINCIPLES

Contracts for the supply of works, goods, services and disposal of assets have a high profile in terms of public accountability. Not only does the public expect that the *Organisation* achieves best value from its procurement and contractual arrangements, but it also expects fair competition, the highest standards of honesty and integrity from those involved, and transparency in respect of all decisions made as part of this process.

Accordingly, all procurement or the disposal of assets carried out by the Organisation must:

- a) Achieve best value.
- b) Be consistent with the highest standards of integrity.
- c) Ensure fairness in allocating public contracts or disposal of assets.
- d) Comply with all legal requirements.
- e) Support the Organisation's corporate and departmental aims and policies.
- f) Comply with the Organisation's Procurement Strategy where there is a current one in place.

A contract is a legally enforceable agreement which gives rise to new rights and duties for those who agree to its terms. A contract is formed when the following key elements coincide:

- Offer.
- Acceptance.
- Consideration.
- Intention to create legal relations.
- Certainty of terms

This can include purchase orders, emails, letters and other forms where the above criteria are met.

#### 1.2. OFFICER RESPONSIBILITIES

- 1.2.1. All officers responsible for purchasing or disposal must comply with these Contract Procedure Rules and the *Organisation's*:
  - a) Financial Procedure Rules;
  - b) Contract Manual;
  - c) Code of Conduct; and
  - d) all UK binding legal requirements which may include retained EU law and international law such as the WTO General Procurement Agreement.

Where there is a conflict between the *Organisation's* internal rules, codes and policies and these Contract Procedure Rules, then these Contract Procedure Rules will take precedence.

1.2.2. Officers must ensure that agents, consultants and contractual partners acting on the *Organisation's* behalf must also comply with the matters listed in 1.2.1.

#### 1.3. MEMBERS RESPONSIBILITIES

Members should refer to the Code of Conduct at their *Organisation*. They should also have regard to the Councillor Protocol for Procurement Annexed to these Rules.

#### 1.4. WHERE TO GET ADVICE

- 1.4.1. These Contract Procedures Rules are divided into two sections to cover the situations where the *Organisation* is acting either as a "purchaser" (when public procurement rules will apply) or as a "seller" or generating an income (when other regulatory requirements will apply).
- 1.4.2. Officers who are uncertain as to whether or not the Rules apply, or how the Rules apply, should seek advice from their *Procurement Team* and/or *Legal Services* at an early stage.

#### 2. COMPLIANCE AND EXCEPTIONS

#### 2.1. COMPLIANCE

Every contractual arrangement entered into by the *Organisation* shall comply with these Contract Procedure Rules unless an *exception* or *waiver* applies.

#### 2.2. NON-COMPLIANCE

- 2.2.1. Any non-compliance with any of these Contract Procedure Rules must be notified to the *Chief Finance Officer* and the *Monitoring Officer* at the earliest opportunity.
- 2.2.2. Failure to adhere to these Contract Procedure Rules could result in disciplinary proceedings.
- 2.2.3. If these Contract Procedure Rules are not complied with, this will not invalidate any contract entered into by the *Organisation*, except where English law (including retained EU law) provides to the contrary.

#### 2.3. EXCEPTIONS

- 2.3.1. These Rules do not apply to:
  - a) Public services contracts which are excluded from the application of the PCR 2015 under Regulation 10 (Specific exclusions for services contracts) and Regulation 12 (Public Contracts between entities within the public sector).
  - b) Public contracts excluded from the application of the UCR 2016 Section 2 (Excluded contracts and design contests; special provisions for procurement involving defence and security aspects).
  - c) Public contracts excluded from the application of the CCR 2016 under 10 (General Exclusions) Regulation 14 (Concession contracts awarded to a joint venture or to a utility forming part of a joint venture) and Regulation 17 (Concession contracts between entities within the public sector).
  - d) Contracts of employment making an individual a direct employee of the Organisation.
  - e) Contracts for the acquisition or rental, by whatever financial means, of land, existing buildings or other immoveable property, or which concerns interests in or rights over any of them (other than those situations covered by Section 2 of these Rules).
  - f) Unconditional grants; for example, for community services. When deciding if a grant is subject to procurement rules, officers must consider the project as a whole. It is possible that an arrangement referred to as a grant could actually meet the definition of a contract set out in the PCR 2015, UCR 2016 or CCR 2016. Whatever the nature of the grant, legal advice should always be sought when considering the making of a grant, to determine whether it is in fact a contract.
  - g) In the case of Eastbourne Borough Council only contracts made to engage artists, orchestras, shows or similar events or attractions at the *EBC's* theatres and other such performance venues provided by the Council PROVIDED THAT the Senior Head of Tourism and Enterprise consults the relevant *Cabinet Portfolio Holder* before agreeing to a contract for seasonal engagement of more than four weeks and that such services fall below the *Applicable Threshold Value* for *Schedule 3 Service Contracts*.

#### 2.4. WAIVERS

- 2.4.1. Subject to paragraph 2.4.2:
  - a) The *Cabinet* has power to waive any requirements within these *Rules* for specific projects, in which case its reasons for doing so shall be recorded in the Minutes of the *Cabinet* meeting;
  - b) The Accountable Officer has power to waive any requirements within these Rules in cases of urgency, after consultation with the Leader of the Council. Any necessary resulting action must be reported to the next meeting of the Cabinet.
  - c) The Accountable Officer has power to waive the requirement within these Rules that requires the use of Constructionline to select those to quote for Works contracts with a value above £25,000 and not exceeding £1,000,000.
  - d) In cases of contracts above the *Applicable Threshold Level, the Accountable Officer* has power to waive any requirements within these Rules, so as to allow the use of the negotiated procedure without prior publication in the specific cases and circumstances laid down in Regulation 32 of the *PCR 2015,* after consultation with the *Leader of the Council.*
  - e) In cases of contracts below the *Applicable Threshold Level, the Accountable Officer* has power to waive any requirements within these Rules, so as to allow negotiation with only one potential contractor without prior advertisement, requests for quotations or tenders where:
    - i. the circumstances are analogous to those set out in Regulation 32 of the *PCR 2015* for above the *Applicable Threshold Level* contracts;
    - the contract is one to which Regulation 8 PCR 2015 or Regulation 11 CCR 2016 (Specific exclusions in the field of electronic communication) or Regulation 12 CCR 2016 (Specific exclusions in the field of water) applies;
    - iii. the contract is one to which Regulation 14 PCR 2015 or Regulation 25 CCR 2016 (Research and development services) applies.

As a general principle, waivers should only be authorised where there are objectively demonstrable grounds for doing so.

- 2.4.2. Where a proposed contract is subject to the provisions of UK legislation or EU retained law then there will be no power to waive or depart from the requirements of the mandatory provisions set out in that legislation.
- 2.4.3. Nothing in these *Rules* prevents the acceptance of a quote or tender, or requires a waiver, simply because less than the minimum number of quotations or tenders have been submitted in response to a procurement process, as long as at least the minimum number of entities were actually requested to quote or tender as required under the *Rules*.

## 3. AUTHORITY FOR THE CONTRACT

- 3.1. Sufficient budget approval should be obtained before a procurement process is commenced. No contract for the supply of goods or services or for the execution of any work shall be entered into, nor any order given for such work unless the appropriate financial provision has been made in the capital or revenue estimates, except pursuant to a specific resolution of the *Organisation* or the *Cabinet*. (See also the Financial Procedure Rules).
- 3.2. The *Designated Officer* will be required to produce confirmation of the authorisation for the contractual arrangement before it is entered into (see also the Scheme of Delegations to Officers).

#### SECTION 1 PURCHASING

#### 4. PRE-PROCUREMENT CONSIDERATIONS

Before *Officers* consider undertaking a procurement process, they should liaise with the Strategic Procurement Manager to check if there is already a Corporate Contract in place that covers their requirements and can be utilised without the need for a new procurement.

*Officers* should appraise the purchase, in a matter commensurate with its complexity and value, taking into account any guidance in the Contract Manual.

It is important that *Officers* have considered the content of these *Rules* and the Contract Manual in advance of undertaking a procurement process to ensure that all the relevant issues have been taken into account and any internal consultation undertaken. There are obligations which impact on purchasing decisions beyond the procurement regulations which may need to be taken into account as appropriate, for example:

- The Public Services (Social Value) Act 2012: how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area.
- Local Government Act 1999: best value duty.
- Local Government Act 1988: non-commercial considerations.
- Application of TUPE and pension rules.
- ICT and potential data security issues.
- The applicable state aid regime

Where *Officers* consider that it may be helpful in undertaking some early **pre market engagement** with potential contractors they should refer to the Contract Manual or *Legal Services* for assistance.

#### 4.1. TYPES OF CONTRACT

More detail can be found in the Contract Manual, but outlined below are the types of contract categories governed by the procurement regulations:

- Public Service Contract
- Public Works Contract
- Public Supply Contract
- Specialist Contracts
  - □ Design Contests
  - □ Subsidised Contracts Works and Services Contracts
  - □ Works Concession Contracts
  - □ Services Concession Contracts
  - □ Framework Agreements
- Dynamic Purchasing Systems
- Innovation Partnership
- Utilities Contracts

#### 4.2. WHAT IS BEING PROCURED?

Officers planning a procurement process must consider what type of contract is being considered in order to understand and plan the application of these Rules. For many purchases this will be a straightforward matter, however, this can be a complex area in relation to some projects. Further guidance can be found in the Contracts Manual or *Legal Services* should be consulted. In summary, it is necessary to have considered the following questions to determine the procurement rules applicable:

- 4.2.1. If the transaction involves more than one element (e.g. it includes works and services), is the transaction capable of being structured as an indivisible whole? If so what is the main object of the contractual arrangements?
- 4.2.2. Alternatively, are the elements of a mixed contract capable of being structured as standalone transactions? If so what are the main objectives of each of the contractual arrangements?
- 4.2.3. Where there is only a single subject matter for the transaction, or if (with regard to 4.2.2) the elements of a mixed transaction can be taken as separate contracts, do they amount to public contracts or concessions under the procurement regime? If so what is the correct classification of each contract and which set of regulations apply? Do the procurement regulations in relation to Utilities or Concessions apply?
- 4.2.4. If there is a public contract (including a concession or utilities contract), is it one that requires advertisement and competition under the regulations or are there exemptions that apply?
- 4.2.5. Regardless of how the public procurement regulations apply, do these *Rules* apply? Are there any *exceptions* or does there need to be a *waiver*?

## 5. PUBLIC SECTOR JOINT WORKING, USE OF CENTRAL PURCHASING ARRANGEMENTS AND FRAMEWORKS

- 5.1. In the event that recourse to a *central purchasing arrangement* or *framework agreement* is being considered or any form of joint working with other public sector bodies, then *Legal Services* must be consulted at an early stage. This is to ensure that the proposed arrangements have been established in accordance with the relevant procurement regulations and are available to be used by the *Organisation* in the way intended.
- 5.2. The *Organisation* fulfils its obligations under these Rules when it acquires supplies or services from a central purchasing body offering the centralised purchasing activity. The *Organisation* also fulfils its obligations where it acquires works, supplies or services by:
  - a) using contracts awarded by the central purchasing body;
  - b) using dynamic purchasing systems operated by the central purchasing body; or
  - c) by using a *framework agreement* concluded by the central purchasing body offering the centralised purchasing activity.
- 5.3. Call-off contracts entered into under a *framework agreement* must be awarded under the terms set out in the *framework agreement*. These may include a mini-competition between those contractors on the framework or the award of a contract to one contractor without re-opening competition. Where the *framework agreement* terms for call-offs are complied with then competitive quotations or tenders are not required under these *Rules*.
- 5.4. Where the *Organisation* is procuring through joint working with other contracting authorities, the procurement must be compliant with these *Rules* or those of the lead authority. In so far as that is

the case and the process followed is compliant with the public procurement regulations, then the process will be deemed to comply with these *Rules*.

5.5. It should be noted that *Constructionline* is not a framework agreement.

### 6. SUMMARY OF THRESHOLDS AND PROCEDURES REQUIRED

6.1. The estimated value of a contract should be calculated at the moment at which the procurement procedure is to be commenced. The Public Contract Regulations 2015, Concession Contracts Regulations 2016 and Utilities Contracts Regulations 2016 contain detailed rules as to how the estimated value of a contract is calculated and when the value of one contract has to be aggregated with contracts awarded by the *Organisation* as a whole to see whether it is over the threshold for the Regulations to apply. Guidance is attached at Annexure 2 but further clarification should be sought from *Legal Services* or the *Procurement Team* if needed.

Estimated Value of the Contract (including VAT)	Estimated Value of the Contract (including VAT)	Minimum Requirement	Advertisement
Service and Supplies	Works		
Contracts Below £25,000 See Para. 8 for details	Contracts Below £25,000 See Para. 8 for details	Obligation to consider best value but no obligation to go out for a particular number of quotes. However consideration should always be given to whether three quotes should be sought. <i>Officer</i> discretion. Reason for direct award should be agreed with <i>Accountable</i> <i>Officer</i> and recorded by <i>Designated Officer</i> .	No requirement to advertise. IF advertised then <b>NO</b> requirement to also advertise in <i>Contracts</i> <i>Finder</i> .
Contracts exceeding £25,000 and not exceeding £100,000 See Para. 9 for details	£25,000 and not exceeding £1,000,000 See Para. 9 for details	Seek minimum three written quotes. Must use <i>constructionline</i> to select those to be invited to quote for Works contracts unless waiver given.	No requirement to advertise. IF advertised then <b>MUST</b> also advertise in <i>Contracts Finder</i> if under PCR 2015.
Contracts exceeding £100,000 but under <i>Applicable</i> <i>Threshold Value</i> See Para. 10 for	Contracts exceeding £1,000,000 but under <i>Applicable</i> <i>Threshold Value</i>	Seek minimum four written tenders. PCR 2016 No pre-selection stage for services/supplies contracts (so number of contractors invited to tender	Requirement to advertise in all cases. Advertise in <i>Contracts</i> <i>Finder</i> in all cases if

Estimated Value of the Contract (including VAT)	Estimated Value of the Contract (including VAT)	Minimum Requirement	Advertisement
Service and Supplies	Works		
details	See Para. 10 for details	cannot be limited in this way) but suitability questions can be asked. Use of <i>constructionline</i> optional for PQQ process for works contracts.	under PCR 2015. If use <i>constructionline</i> then no requirement to advertise.
Above <i>Applicable</i> <i>Threshold Value</i> See Para. 11 for details	Above <i>Applicable</i> <i>Threshold Value</i> See Para. 11 for details	Regulated process to be followed unless an <i>exception</i> or <i>waiver</i> applies (for example to allow the negotiated procedure without competition). Consult <i>Legal Services or</i> <i>Procurement Team</i> .	Requirement to advertise in all cases. Advertise in <i>Contracts</i> <i>Finder</i> if under PCR 2015.

## 7. SUMMARY OF ADVERTISEMENT RULES AND REQUIREMENTS

- 7.1. Where a proposed contract meets or exceeds the thresholds set out in the applicable Regulations, (*Applicable Threshold Value*) a public contract notice or a Prior Indicative Notice (depending on the procedure) must be placed in the UK e-notification service (Find a Tender)(FTS) if and when required under the applicable Regulations
- 7.2. Any *national advert* should not be published until the Find a Tender (FTS) advert has been published or after 48 hours of having submitted a notice to Find a Tender (FTS).
- 7.3. Where procurement is commenced through a contract notice to the FTS under the PCR 2015 then the *Designated Officer* must also ensure that the contract is advertised on *Contracts Finder* within 24 hours of the time when the *Organisation* can publish a national advert (see above).
- 7.4. Where the *Organisation* chooses to advertise an opportunity to be awarded a below threshold contract (regardless of how specific that opportunity is) to which the Public Contracts Regulations 2015 would apply if it were above the *Applicable Threshold Value*, then if the estimated value of the contract opportunity is £25,000 or more (including VAT), the *Designated Officer* must also advertise the opportunity through *Contracts Finder*. The information must be published in *Contracts Finder* within 24 hours of the time when it first advertises the award opportunity in any other way.

- 7.5. The contract is not 'advertised' for the purpose of triggering a requirement to advertise in Contracts Finder if the invitation to quote is only made available to a number of particular contractors who have been selected for that purpose either ad hoc or by virtue of their membership in some closed category such as a framework agreement.
- 7.6. *Officers* should also assess the need for wider advertisement in:
  - a) relevant newspapers;
  - b) any national or trade journal applicable to the industry.

#### 8. CONTRACTS BELOW £25,000

- 8.1. The *Designated Officer* has an obligation to consider securing best value for these contracts, but is under no obligation to go out for a particular number of quotes. However consideration should always be given to whether three quotes should be sought.
- 8.2. Where a decision is taken not to seek multiple quotes in any particular situation then the reason for direct award should be agreed with *Accountable Officer* and recorded by the *Designated Officer*.

## 9. CONTRACTS EXCEEDING £25,000 AND NOT EXCEEDING £100,000 OR £1,000,000 FOR CONTRACTS FOR WORKS

- 9.1. Where the appropriate *Designated Officer* estimates a contract is likely to fall within this category they shall, wherever practicable, obtain at least three competitive quotations in writing. Where practicable, at least one quote shall come from a local supplier.
- 9.2. It is not the intention that there should be any advertisement when obtaining quotations, but it should be noted that where the value of the contract is estimated to be £25,000 or more and the *Organisation* chooses to advertise then the requirements set out in paragraph 7.4 must be observed.
- 9.3. The procurement regulations provide that when using the PCR 2015 you cannot have pre-selection stage for a contract above £25,000 but below the *Applicable Threshold Value*. For this purpose only, the threshold that applies to works contracts is the same as for services/supplies contracts.
- 9.4. An invitation to supply a quotation shall, as a minimum, comprise the following information (which may, at the discretion of the *Designated Officer*, be bound within a composite letter):
  - a) Instructions for return.
  - b) The basis on which a quotation will be assessed and on which the winning quotation will be accepted.
  - c) Terms and conditions under which the works, goods or services are to be provided.
  - d) Specification of the works, goods or services to be provided.
  - e) Pricing schedule or similar from which the bid price can be readily ascertained.
  - f) A statement that the Council is under no obligation to accept any quotation.
- 9.5. The Designated Officer must keep a record of:
  - a) All contractors that were asked to provide a quotation
  - b) The reasons why those particular contractors were selected to provide a quotation.

- 9.6. Where practicable, quotations shall be returned through the electronic tendering system of the *Organisation*. Where this is not possible contractors should be asked to provide quotations by a specified date in plain envelopes/packages which have been securely sealed and marked with the word "Quotation" followed by the contract or subject to which it relates. Telephone quotes are not to be considered. Email quotes may only be accepted if a separate email account is set up for the purpose of the quotation which cannot be accessed until after the deadline for return has passed.
- 9.7. Quotations should not be accessed or opened until after the deadline for return has passed. They should be opened in the presence of the *Designated Officer* plus one other *Officer*. The *Designated Officer* must record the following details on the Quotation Control Form or within the electronic tendering system:
  - a) The name of the company.
  - b) The value of the quote.
  - c) The date the quote was received.
  - d) The form in which it was received from the company.
  - e) The recommendation as to which quote if any to accept.
- 9.8. The *Designated Officer* shall seek the written authority of the *Accountable Officer* to authorise the recommendation by the *Designated Officer*. All documents relating to the quotation exercise shall be provided to the *Accountable Officer* by the *Designated Officer*. The *Accountable Officer* shall certify the acceptance of the quote on the Quotation Control Form or within the electronic tendering system. The Quotation Control Form can be found in the Contract Manual.
- 9.9. A quotation may be accepted on the basis on which it was indicated in the invitation to quote that the winning quotation would be identified i.e. either:
  - a) The lowest price quotation; or
  - b) The highest scoring quotation where evaluated against acceptance criteria previously disclosed to those participating in the competition.

No quotation which exceeds the approved budget provision shall be accepted until approval to further expenditure has been obtained.

#### 10. CONTRACTS EXCEEDING £100,000, OR £1,000,000 IN CASE OF A CONTRACT FOR WORKS, BUT UNDER APPLICABLE THRESHOLD VALUE

- 10.1. All tendering procedures from planning to contract award and signature must be undertaken in a manner so as to ensure:
  - a) Sufficient time is given to plan and run the process;
  - b) Equal opportunity and equal treatment;
  - c) Openness and transparency;
  - d) Probity; and
  - e) Outcomes that deliver sustainability, efficiency and whole life costing.
- 10.2. Contract opportunities should be advertised by public notice, which may take the form of a notice or advertisement on a readily accessible website or other electronic media and/ or in the press, relevant trade journals or UK e-notification service (Find a Tender) (as appropriate). The *Designated Officer* may choose to place one or more public notices. Where the *Organisation* advertises an opportunity to be awarded at below *Applicable Threshold Value* (regardless of how specific that opportunity is) to which the Public Contracts Regulations 2015 would apply if it were above the *Applicable Threshold Value*, then if the estimated value of the contract opportunity is

£25,000 or more (including VAT), the *Designated Officer* must also advertise the opportunity through *Contracts Finder*. The information must be published in *Contracts Finder* within 24 hours of the time when it first advertises the award opportunity in any other way if covered by the PCR 2016.

- 10.3. It should be noted that the procurement regulations provide that when using the PCR 2015 you cannot have pre-selection stage for a contract above £25,000 but below the *Applicable Threshold Value*. For this purpose only, the threshold that applies to works contracts is the same as for services/supplies contracts. It is possible to ask suitability questions and further guidance on this is in the Contract Manual.
- 10.4. Where a works contract is above the *Applicable Threshold Value* the pre-selection stage can use the Crown Commercial Services standard Selection Questionnaire or the industry-standard *PAS 91* for public contracts for Works. Constructionline PQQs are aligned to *PAS 91* and so can be used for this purpose in accordance with the guidance in PPN 8/16.
- 10.5. The invitation to tender shall (unless otherwise agreed by *Legal Services*) state that no tender will be considered unless it is received by the date and time stipulated in the invitation to tender. No tender delivered in contravention of this clause shall be considered.
- 10.6. An invitation to tender shall (unless otherwise agreed by *Legal Services*), as a minimum, comprise the documents listed below:
  - a) Form of tender, which must include a statement that the *Organisation* is under no obligation to accept any tender
  - b) Certificate that the tender is bona fide
  - c) Instructions to tenderers, including notification that where electronic means are not used that no tender will be considered unless it is enclosed in a sealed envelope or container which bears the word "Tender" followed by the subject to which it relates to but no other name or mark indicating the sender.
  - d) Form of contract including contract conditions.
  - e) Specification of the works, goods or services to be provided
  - f) Bill of quantities or pricing schedule (as necessary)
  - g) Award criteria for the selection of the successful tender.

#### **11. ABOVE APPLICABLE THRESHOLD VALUE CONTRACTS**

- 11.1. Whilst the rules set out in paragraph 10 above also apply to fully regulated procurements, additional steps must also be taken in accordance with the law and relevant guidance. For this reason, additional time must be allowed at an early stage of project planning
- 11.2. Where the estimated contract value is above the Applicable Threshold Value ("a fully regulated procurement"), the *Accountable* or *Designated Officer* must consult with *Legal Services* in the very early stages of project planning, to determine the appropriate method of conducting the purchase and to ensure the correct procedures are followed.
- 11.3. Where a contract is fully regulated there are four main procedures available. These are the open, restricted, competitive dialogue procedures and competitive procedure with negotiation.
- 11.4. The *Accountable* or *Designated Officer* must consider the minimum time frames which apply to fully regulated projects and consult *Legal Services* at the outset.
- 11.5. Where the Public Contract Regulations 2015, Concession Contract Regulations 2016 or Utilities Contract Regulations 2016 require a prior indicative notice (PIN) or public contract notice to be

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placed in the UK e-notification service (Find a Tender) then any other *national advert* should not be published until the FTS advert has been published or after 48 hours of having submitted a notice to Find a Tender. Where a procurement exercise is commenced under the PCR 2015 through a contract notice to the FTS then the *Designated Officer* must also ensure that the contract is advertised on *Contracts Finder* within 24 hours of the time when the *Organisation* can publish a *national advert*.

#### **12. EXTENSIONS AND CHANGES TO EXISTING CONTRACTS**

- 12.1. No variation and/or extension must be made to a contract without an agreed budget.
- 12.2. Variations and/or extensions to existing contracts will normally be permitted **only** where all of the following criteria are met:
  - a) The variation and/or extension is not so materially different from the scope of the original contract that a new procurement exercise needs to be run having regard to the provisions in Regulation 72 of the PCR 2015, Regulation 42 of the CCR 2016 or Regulation 88 UCR 2016; and
  - b) Value for money can be demonstrated; and
  - c) The variation and/or extension is approved by *Legal Services*.

12.3. Delegated authority to authorise extensions and variations are as follows:

- a) any extension or variation to a contract resulting in an increase of more than 10% of its total value or duration, to a maximum value of £50,000, must be authorised by the relevant *Chief Officer*;
- b) any extension or variation resulting in an increase of more than £50,000 must be authorised by the relevant *Cabinet Portfolio Holder*;
- c) where the extension or variation would lead to a significant change in the level of service or have cost implications for future years outside of the *Organisation's* overall budget framework, *Organisation* approval must be given.
- 12.4. In **exceptional** and/or **extremely urgent** circumstances, extensions and/or variations may be granted by the *Chief Officer* after consultation with the *Leader of the Council*. Any necessary resulting action must be reported to the next meeting of the *Cabinet* and if necessary, *Council*.
- 12.5. Where any variation or extension results in a need for budget virement, this will be subject to the virement provisions in the *Financial Procedure Rules*.

#### **13. RECEIPT AND OPENING OF TENDERS**

- 13.1. *Officers* should ensure that contractors who may tender are aware of the rules relating to the tendering process set out.
- 13.2. A tender should only be considered if received in accordance with the *Organisation's* tendering protocols set out in the invitation to tender or where otherwise agreed in consultation with *Legal Services*.
- 13.3. Where not submitted electronically through the approved procurement portal, the *Accountable Officer* or his or her nominated officer will keep the tenders securely. Tenders, however received, must not be opened or accessed until expiry of the time limit for submission and the time appointed for their opening.
- 13.4. Tenders must be opened in a fair and secure fashion in the presence of the *Designated Officer* and at least one other *officer*. The presence may be virtual where the electronic approved procurement portal is used.

- 13.5. The *Designated Officer* must record the following tender details:
  - a) The names of those present during the Tender opening
  - b) The date and time the Tenders were opened
  - c) The name and estimated value of the contract.
  - d) The Accountable Officer instigating the contract.
  - e) The closing date and time for tenders to be received.
  - f) The name of each invited tenderer.
  - g) The tender amount. In the event of the value of the tender being unclear e.g. dependent upon further calculation or based on a schedule of rates, the Tender amount should be recorded as "To be assessed".
  - h) In the event that an invited tenderer fails to tender, the tender sum should be recorded as "No Tender Received".
  - i) With regard to tenders received after the specified date and time, the tender sum should be recorded as "Received Late" with the actual date and time received.
- 13.6. The *Designated Officer* must retain a copy of each tender in accordance with the *Organisations* Document Retention & Disposal Schedule.
- 13.7. Where information or documentation to be submitted by a tenderer is or appears to be incomplete or erroneous, or where specific documents are missing, the *Organisation* may request the tenders concerned to submit, supplement, clarify or complete the relevant information or documentation within an appropriate time limit, provided that such requests are made in compliance with the principles of equal treatment and transparency.
- 13.8. This will generally mean that a request must not in reality lead to the submission of a new tender. In particular it relates to the identification of any obvious errors, ambiguity and incompleteness which might prevent the *Organisation* from being able to undertake the evaluation process and in particular those which are capable of simple explanation and can be easily resolved.
- 13.9. A request for clarification should not appear unduly to have favoured or disadvantaged the tenderer or tenderers to which the request was addressed.
- 13.10. A request for clarification of a tender should be made only after the *Organisation* has looked at all the tenders. Furthermore, that request must be sent in an equivalent manner to all undertakings which are in the same situation, unless there is an objectively verifiable ground capable of justifying different treatment of the tenderers in that regard, in particular where the tender must, in any event, in the light of other factors, be rejected.
- 13.11. In addition, a request should relate to all sections of the tender which are imprecise or which do not meet the technical requirements of the tender specifications if the *Organisation* wishes to raise queries or reject the tender because of them.
- 13.12. The *Accountable Officer* must accept a tender on the basis on which it was indicated in the invitation to tender that the winning tender would be identified i.e. either:
  - a) The lowest priced tender; or
  - b) The tender that scores highest when evaluated against the acceptance criteria previously set by the *Accountable Officer* and disclosed to those participating in the competition.
- 13.13. A tender that is not the lowest priced or highest scoring tender can only be accepted by the *Cabinet*, in respect of those functions that are the functions of *Cabinet*, after considering a report by the *Accountable Officer*.
- 13.14. Tenders exceeding the approved estimate may only be accepted once approval to further expenditure is obtained. This may be approved by the relevant budget holder within delegated limits. Otherwise, approval by *Cabinet* or *Council* in accordance with the Constitution is required.

#### **14. CONTRACT AWARD**

- 14.1. *Designated Officers* or *Accountable Officers* have delegated authority to authorise contracts within their approved budget.
- 14.2. Contracts with a value greater than that allocated within the relevant budget must be authorised by *Cabinet*.
- 14.3. Any contract over £100,000 must be authorised by an Accountable Officer and executed as a deed or under seal. The Council seal is held by *Legal Services* and will only be used once *Legal Services* receives the necessary authorisation from the *Accountable Officer* to bind the *Organisation* to the contract.
- 14.4. The award of a contract over £25,000 (Including VAT) (including under a framework agreement) must be published in accordance with the Public Contracts Regulations 2015 and in *Contracts Finder*. Awards of contracts under the UCR 2016 and under the CCR 2016 must be published in accordance with those Regulations.

#### **15. FINANCIAL CHECKS**

- 15.1. In the case of contracts to be awarded which either have an estimated value in excess of £100,000, or where the *Accountable Officer* considers that the failure of the contractor to perform would result in a high risk to the *Organisation*, the *Accountable Officer* must request that the *Chief Finance Officer* carry out a financial status check on all applicants.
- 15.2. The financial status check will take into account the financial viability of the applicant, their ability to deliver the contract in financial terms and the current level of contractual relationship with the applicant.
- 15.3. The *Accountable Officer* may authorise a tender to be invited from a contractor whose financial status is not favourable, where to do so is necessary in order to secure a bid for the works, supplies or services and the risks associated with contract failure have been assessed and in his/her opinion are within acceptable limits. In such an event, the *Accountable Officer* must justify such a decision and maintain all records accordingly.
- 15.4. The financial checks will be carried out in compliance with the provisions of the Public Contracts Regulations 2015 (in particular Regulations 107 and 111 and associated guidance) and as appropriate the UCR 2016 and CCR 2016 depending on the value and type of public contract.

#### **16. CONTRACT TERMS**

- 16.1. Every contract that exceeds £100,000 in value or contains a potentially significant risk must be in writing in a form approved by *Legal Services*.
- 16.2. <u>Note:</u> *Legal Services* may also determine the format of any contract for a lesser value.
- 16.3. Other than in exceptional circumstances, and where the written consent of *Legal Services* has first been obtained, all contracts must be concluded formally in writing **before** the supply of any goods, service or the commencement of any work. The issue of an award letter or letter of intent is not acceptable for this purpose.
- 16.4. Every contract must include details of:
  - a) The works, goods or services to be provided, supplied or carried out;

- b) The price to be paid, with a statement of discounts or deductions;
- c) The time or times within which the contract is to be performed;
- d) Where appropriate, provision for the payment of liquidated damages where the contractor fails to complete the contract within specified timescales;
- e) A clause empowering the *Organisation* to cancel the contract in circumstances of corruption and/ or collusion and to recover any loss resulting from such cancellation;
- f) A clause requiring appropriate insurance cover;
- g) Where appropriate, a requirement for the provision of a bond, parent company guarantee or other sufficient security for due performance of the contract. Where the contract value exceeds £1,000,000 the contract shall contain such a provision unless the *Chief Finance Officer* determines otherwise;
- h) Specific provision as to sub contracting where appropriate;
- i) A clause enabling termination in accordance with Regulation 73 of the PCR 2015, Regulation 89 UCR 2016 and Regulation 44 CCR 2016 if it is above the *Applicable Threshold Value*; and
- j) A clause containing suitable provisions (having regard to guidance issued by the Minister for the Cabinet Office) to comply with the requirements of Regulation 113 of the Public Contract Regulations 2015 in relation to the payment of undisputed invoices within 30 days to contractors and sub-contractors.

## 16.5. The Safeguarding of Children and Vulnerable Adults and the relevance of other Council policies noted in the Corporate Procurement Policy.

- 16.6. In any contract where a contractor or subcontractor will have contact with members of the public, the *Designated Officer* is responsible for ensuring that it is a condition of the contract that the contractor, or subcontractor, will comply with the *Organisation's* 'Safeguarding Children and Vulnerable Adults Policy'. The *Designated Officer* is responsible for ensuring that the contractor has a copy, or has access to a copy, of this policy.
- 16.7. These Rules must moreover be read in conjunction with the *Organisation's* Corporate Procurement Policy. This Policy provides details of those other *Organisation* policies (such as those relating to Equalities and other supplier responsibilities) which ensure that all procurement activity reflects the *Organisation's* corporate standards and objectives.

## 17. RECORDS

- 17.1. The following records must be kept by the Designated Officer:
  - a) forms of tender received from all tenderers
  - b) all documentation from the three highest scoring tenderers until the end of the contract when the second and third tenderers documentation can be destroyed
  - c) communication with unsuccessful tenderers
  - d) the award criteria
  - e) for above threshold contracts the information required for reporting and documenting in Regulation 84 of the PCR 2015 (including why an above threshold contract has not been divided into Lots), Regulation 45 CCR 2016 and Regulation 99 UCR 2016. For below threshold contracts information may be required by the Cabinet office.
- 17.2. The documents detailed must be kept for at least six years after the end of the contract, or as specified by any Document Retention Policy approved by the *Organisation*.

#### **SECTION 2 SELLING**

#### 18. DISPOSAL OF INTERESTS IN LAND

- 18.1. No sale or lease by the *Organisation* of land (where the value exceeds £50,000 or £25,000 if amenity land; or in the case of a lease, the estimated rent exceeds £25,000 per annum) shall be made except after auction or the invitation of tenders or expressions of interest following public advertisement, in at least one newspaper circulating in the *District* (or other appropriate means of advertising), unless specifically authorised by *Cabinet*. This shall not apply to the renewal of a lease made pursuant to the Landlord and Tenant Act 1954 or to the sale of *Organisation* dwellings under the right to buy scheme.
- 18.1A No sale or lease by Lewes District Council of land where the value exceeds limits referred to in Rule 18.1 above shall be made except after consulting with the Member(s) for the ward affected and, where the land falls within the area of a town or parish council, the clerk of that council.
- 18.2. The *Designated Officer* shall record the power under which land or an interest in land is disposed which is likely to be one of the following:
  - 18.2.1 Local Government Act 1972 Section 123 Disposal power in relation to land not held for planning or housing purposes
  - 18.2.2 Town and Country Planning Act 1990 Section 233 Disposal power in relation to land held for planning purposes
  - 18.2.3 Housing Act 1985 Section 32 Disposal power in relation to land held for purposes of Part II of the Housing Act 1985
- 18.3. The disposal of land or interests in land shall comply with the applicable rules on state aid.
- 18.4. Consideration should be given to the circumstances in which a public contract may be created through a disposal of land. *Legal Services* and/or guidance contained in the Contract Manual should be consulted.

#### **19. DISPOSAL OF ASSETS**

19.1. Assets for disposal must be sent to public auction except where better value for money is likely to be obtained by inviting quotations or tenders. (These may be invited by advertising on the *Organisation's* internet site or other appropriate means of advertisement). Quotations or tenders will not be required where an expert valuation has confirmed that an alternative method of disposal (such as where there is a *Special Purchaser*) will secure market or above market value. The method of disposal of surplus or obsolete assets other than land must be formally agreed with the *Chief Finance Officer*.

#### 20. INCOME GENERATING CONTRACTS

- 20.1. The *Designated Officer* shall consult with *Legal Services* in relation to contracts where the *Organisation* is proposing to generate an income or receive a payment. Such contracts may include joint venture arrangements or concessions contracts. A concession contract may include contracts for the provision of works and services where the consideration under the contract includes the right to exploit the works or services to be provided. These may be governed by the public procurement rules.
- 20.2. Matters to consider will include: 20.2.1. Powers,

20.2.2. State aid, 20.2.3. Best value.

## 21. PURCHASE OF INTERESTS IN LAND

- 21.1. The *Designated Officer* shall record the power under which land is purchased.
- 21.2. The purchase of land shall comply with the applicable rules on state aid.

## DEFINITIONS

#### 22. DEFINITIONS

Word or Phrase	Meaning
Accountable Officer	For EBC and LDC this means the Chief Executive or Senior Head of Service responsible for the particular project. For EHL this means the Chief Executive or Managing Director as appointed by the Board.
Applicable Threshold Value	The threshold in relation to the estimated value of the contract (including VAT) as set out in the relevant procurement Regulation above which an FTS process must be followed. For the <i>Organisations</i> these are currently:
	PCR 2015
	Works: £5,336,937
	Supplies/Services/design: £213,477
	Schedule 3 service contracts for social and other specific services: £663,540
	Small Lots supplies or services: £70,778
	Small Lots works: £884,720
	CCR 2016
	Works or Services: £5,336,937
	UCR 2016
	Works: £5,336,937
	Supplies/Services/design: £426,955
	Schedule 3 service contracts for social and other specific services: £884,720
	Small Lots supplies or services: £70,778
	Small Lots works: £884,720

Word or Phrase	Meaning
Cabinet	For EBC and LDC this is the Cabinet of the Council. For EHL this is (1) the Board of Directors appointed in accordance with the Articles and Memorandum of Association or (2) a Committee, where the
	matter relates to a function delegated to that Committee in both cases after considering a report from one or more of the Executives.
Cabinet Portfolio Holder	For EBC/LDC the member of the Cabinet designated as the lead member for the relevant function or service and if none the Leader of the Cabinet. For EHL any of the Executives as appropriate to the matter being considered.
CCR 2016	Concession Contract Regulations 2016 as amended
central purchasing arrangement	This is an arrangement involving a "central purchasing body". A "central purchasing body" means a contracting authority which provides centralised purchasing activities and which may also provide ancillary purchasing activities. Contracting authorities may acquire supplies, services, or works through a central purchasing body offering a centralised purchasing activity.
Chief Finance Officer	For EBC and LDC the person designated as the responsible officer under section 151 of the Local Government Act 1972; for EHL the Director Finance and Corporate Services.
Chief Officer	For EBC and LDC these are the Chief Executive, the Deputy Chief Executive, the Directors, the Senior Heads, the Monitoring Officer and the Chief Finance Officer. For EHL these are the Executives.
Code of Conduct	Employee and/or staff code of conduct or the Code of Conduct for Councillors, as applicable.
Constructionline	Constructionline is a national register of pre qualified local and national construction and construction related contractors and consultants. It is owned by Capita PLC and endorsed by the Department of Business, Innovation & Skills. The Council uses this register as its selection method for construction related contracts. Firms or contractors who are not registered on Constructionline can apply to join it. Information on how to register, application rules and forms can be found at <u>www.constructionline.co.uk</u>
Contracts Finder	Contracts Finder is an electronic procurement portal and is the responsibility of the Crown Commercial Service (CCS) and the new Contracts Finder portal can be found at www.gov.uk/contracts-finder. The Council has issued guidance notes on how to use the portal.

Word or Phrase	Meaning
Council	For EBC and LDC this is the Council meeting. For EHL this is the Board of Directors.
Designated Officer	The Officer designated by the Chief Officer to deal with the procurement process in question.
District	The administrative area of the Organisation
EBC	Eastbourne Borough Council.
EHL	Eastbourne Homes Limited.
Exception or exception	A circumstance set out in paragraph 2.3 (Exceptions) of the Contract Procedure Rules.
Executives	For EHL this means the Chief Executive or Managing Director and the Services Directors (being the Director of Finance and Corporate Services and the Director of Operations).
Financial Procedure Rules	For EBC/LDC these are the Financial Procedure Rule that form part of the Constitution. For EHL these are the Financial Regulations.
Find a Tender or FTS	The UK e-notification service. This replaces the advertisements previously issued via OJEU.
Framework Agreement	An agreement between one or more contracting authorities and one or more economic entities, 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.
LDC	Lewes District Council.
Leader of the Council	For EBC and LDC this is the Leader of the Council as appointed under their respective Constitutions. For EHL this shall be the Chairman of the Board.
Legal Services	For LDC this means the Council's senior legal officer or a specialist lawyer in that officer's team; for EBC/EHL that means the Lawyer to the Council or a specialist lawyer in that officer's team.
Monitoring Officer	For EBC and LDC the person designated as the responsible officer under section 5 of the Local Government and Housing Act 1989; for EHL the Governance & Compliance Manager/Company Secretary.
national advert	An advertisement of the opportunity other than in the UK e- notification service (otherwise known as Find a Tender or FTS).
Officer or Officers	Any member of staff employed by the <i>Organisation;</i> any person seconded to or made available to the <i>Organisation;</i> any agent or consultant acting for the <i>Organisation;</i> and in the case of EHL, any director of the company.

Word or Phrase	Meaning
Organisation	Eastbourne Borough Council ("EBC"); Lewes District Council ("LDC"); Eastbourne Homes Limited ("EHL").
PAS 91	PAS 91 is a standardised pre-qualification questionnaire which has been developed to reduce the need for suppliers to complete a variety of different pre-qualification questionnaires for different, and in some cases, the same clients. A copy is attached to the Contract Manual and can also be downloaded as a free pdf copy at: <u>https://shop.bsigroup.com/ProductDetail?pid=00000000030336960</u>
PCR 2015	Public Contracts Regulations 2015 as amended
Procurement Team	The Officers (if any) with designated responsibility in the relevant <i>Organisation</i> for advising on procurement processes
Rules	The Contract Procedure Rules.
Schedule 3 Service Contracts	Contracts listed in Schedule 3 of the PCR 2015 for social and other specific services.
Special Purchaser	A particular buyer for whom a particular asset has special value (i.e. an amount that reflects particular attributes of an asset that are only of value to a Special Purchaser) because of advantages arising from its ownership that would not be available to other buyers in a market.
UCR 2016	Utilities Contracts Regulations 2016 as amended
Waiver or waiver	A circumstance set out in paragraph 2.4 (Waiver) of the Contract Procedure Rules.

## 1. ANNEXURE ONE: COUNCILLOR PROTOCOL FOR PROCUREMENT

## COUNCILLOR PROTOCOL FOR PROCUREMENT

#### Introduction

- 1 The Council's governance arrangements provide for procurement to be managed in accordance with Contract Procedure Rules, and for Councillors to be guided in their work by the Protocol on Member/Officer Relations and the Code of Conduct for Members of the Council. The Code of Conduct for Members includes the need for Councillors to register their interests in any contract with the Council, but in other respects these documents make only limited reference to the role of Councillors in the specialist area of procurement.
- 2 This protocol is to guide Councillors in procurement procedures and to minimise the risk of any non compliance with UK legislation and retained EU law.

#### **Best Practice Guidance**

- **3** A Councillor must not arrange or participate in any meeting or other form of communication with tenderers or potential tenderers for Council contracts that has not been arranged by Council officers.
- 4 A Councillor who is or will be involved in the process that leads to the award of any Council contract must not discuss the matter if they are approached by or on behalf of anyone interested in obtaining that contract.
- 5 A Councillor, who is a representative of an organisation that tenders or quotes for Council work, may not take part in the process that leads to the award of any contract in that area of service or be involved in the subsequent administration of that contract.
- 6 If a Councillor is a representative of an organisation that tenders or quotes for Council work, the organisation can only be awarded Council work through a process of open competition under Contract Procedure Rules.
- 7 The Council will not seek tenders or quotes from an organisation, or place work with an organisation using a schedule of rates or any call off arrangement, if a Councillor who is the Cabinet Member for that area of the Council's service is a representative of that organisation.
- 8 A Councillor must not seek to influence the procurement decisions of officers or do anything that compromises or is likely to compromise the impartiality of officers.
- **9** A Councillor must not pressurise any officer to change his/her professional opinion on procurement issues or give direct instructions to officers.

- **10** A Councillor must not take a proactive part to represent or in any other way advocate on behalf of any tenderer or contractor.
- **11** Any Councillor, who is a representative of an organisation that tenders or quotes for Council work, must declare that interest in the Register of Interests.
- **12** Confidential information relating to any tender, tenderer or prospective tenderer must remain confidential, and a Councillor must ensure that no confidential information is disclosed to unauthorised persons or organisations.

A breach of the above guidance may constitute, depending on the circumstances, a breach of the Code of Conduct for Members.

# 2. ANNEXURE TWO: GUIDANCE ON CALCULATING ESTIMATED CONTRACT VALUE PCR 2016

#### The Calculation

Calculation of the estimated value of a contract must be based on the total amount payable (including VAT). This has to be undertaken at the moment at which the call for competition is sent, or if no call for competition then at the moment at which the *Organisation* intends to commence an alternative process to select suppliers e.g. by seeking quotations.

The choice of method used to calculate the estimated value must not be made with the intention of excluding it from the public procurement regulations.

A procurement exercise must not be subdivided with the effect of preventing it from falling within the public procurement regulations unless justified by objective reasons.

The rules require that where there are separate operational units within the *Organisation*, the total estimated value of the works, supplies or services for all those units is taken into account when calculating the estimated value. This means the majority of procurements undertaken will need to take account of the overall *Organisation* spend.

However where a unit is independently responsible for its procurement or certain categories of its procurement, the values may be estimated at the level of the unit in question. This will apply where the separate operational unit independently runs the procurement procedures and makes the buying decisions, has a separate budget line at its disposal for the procurements concerned, concludes the contract independently and finances it from a budget which it has at its disposal. A subdivision is not justified where the *Organisation* merely organises a procurement exercise in a decentralised way.

The value must be estimated by the *Organisation* including:

- any form of option in relation to the contract (e.g. where there is an option to include possible additional services)
- any renewals that are provided for in the contract
- any prizes or payments to candidates or tenderers
- any payments that will be made by third parties to the supplier as a result of undertaking the contract
- in the case of insurance services, the premium payable and other forms of remuneration
- in the case of banking and other financial services, the fees, commissions payable, interest and other forms of remuneration

- in the case of design contracts, the fees, commissions payable and other forms of remuneration
- where the contract is or may be divided into lots, account has to be taken of the total estimated value of those lots
- in relation to framework agreements and dynamic purchasing systems, the value to be taken into consideration is the total for all the contracts envisaged during the term of the framework agreement or system
- in relation to innovation partnerships, the value to be considered is the maximum estimated value of the research and development activities to take place during all stages of the envisaged partnership as well as the supplies and services or works to be developed and procured at the end of the envisaged partnership
- in the case of works contracts, the calculation shall include both the cost of the work and the total estimated supplies and services that are made available to the contractor by the *Organisation* where they are necessary for executing the works

#### **Specific Rules for Supply Contracts**

In relation to supply contracts relating to the leasing, hire, rental or hire purchase of products, the value to be taken as a basis for calculating the estimated contract value is:

- in the case of fixed-term contracts, where that term is less than or equal to 12 months, the total estimated value for the term of the contract, or, where the term of the contract is greater than 12 months, the total value including the estimated residual value;
- in the case of public contracts without a fixed term or the term of which cannot be defined, the monthly value multiplied by 48.

#### Specific Rules for Services Contracts

In relation to service contracts which do not indicate a total price, the basis for calculating the estimated contract value is:

- in the case of fixed-term contracts, where that term is less than or equal to 48 months: the total value for their full term;
- in the case of contracts without a fixed term or with a term greater than 48 months: the monthly value multiplied by 48.

#### Aggregation Rules for Supplies and Services

In the case of supplies and services contracts which are regular in nature or which are intended to be renewed within a given period, the calculation of the estimated value of every contract must be based on one of the following:

- the total actual value of the successive contracts of the same type awarded during the preceding 12 months or financial year adjusted, where possible, to take account of the changes in quantity or value which would occur in the course of the 12 months following the initial contract; or
- the total estimated value of the successive contracts awarded during the 12 months following the first delivery, or during the financial year where that is longer than 12 months.

For this purpose, the notion of similar supplies means products which are intended for identical or similar uses, such as supplies of a range of foods or of various items of office furniture. Typically, a supplier active in the field concerned would be likely to carry such supplies as part of his normal product range. So for example the *Organisation* will need a certain amount of printer paper over the year, and it knows from the previous year it spent over the Applicable Threshold Value for that supply. This means that even if it wanted to buy one packet at a time, that single purchase would have to be treated as an above threshold purchase subject to the full procurement rules. The same concept applies to services contracts.

#### Lots and Small Lots

Where the contract is or may be divided into lots and the total value of those lots exceeds the Applicable Threshold Value then the full regulated procurement rules apply to awarding a contract for each lot.

The *Organisation* may however award contracts for individual lots without applying the full procurement procedures (but under its own CPRs) provided the estimated value of the lot concerned is less than:

- £70,778 for supplies or services
- £884,720 for works

Provided the aggregate value of the lots awarded does not exceed 20% of the aggregate value of all the lots into which the proposed work, services or supplies has been divided.

## PART 4

## **Officer Employment Procedure Rules**

### **1** Recruitment and Appointment

- (a) Declarations
  - The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the relative of an existing Councillor or officer of the Council;
  - (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Director or an officer nominated by him/her.
- (b) Seeking support for appointment.
  - The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
  - (ii) No Councillor will seek support for any person for any appointment with the Council.

#### 2 Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a Director and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (2)(a) to be sent to any person on request.

#### 3 Appointment of Head of Paid Service

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee of the Council comprising the Leader of the Council, Leaders of the Minority Groups, one other Councillor nominated by the Leaders of the Minority Groups, a Cabinet Member and one other Councillor nominated by the Leader of the Council. Any Councillor who cannot attend may appoint a substitute.
- (b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.
- (c) No offer of appointment to the position of Head of Paid Service may be made until full Council have approved the appointment.

#### 4 Appointment of Chief Officers and Directors

- (a) A committee of the Council (the "Appointments Committee") will appoint any Chief Officer or Director. The composition of that Committee will vary depending on the appointment under consideration. The remit of the Appointments Committee is contained in Part 11 of the Constitution.
- (b) An offer of employment as a Chief Officer or Director shall only be made where no well-founded objection from any member of the executive has been received.

#### 5 Other Appointments

**Officers below Director.** Appointment of officers below Director are the responsibility of the Head of Paid Service or his/her nominee, and cannot be made by Councillors.

#### 6 Disciplinary action

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and chief finance officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (b) Councillors may not be involved in disciplinary action against any officer below Director level, except where
  - (i) such involvement is necessary as part of any investigation or enquiry into alleged misconduct committed by an officer of that level;

- the disciplinary action is against the Council's Monitoring Officer, and Councillors are involved in any aspect of the dismissal process specified in paragraph 7 below; or
- (iii) Councillors are determining in accordance with the Council's disciplinary, capability and related procedures – an appeal brought by an officer against disciplinary action taken against him or her by the Council.

#### 7 Dismissal

7.1 The power to approve the dismissal of the Council's Head of Paid Service, its Monitoring Officer or its Chief Finance Officer shall be exercised only by full Council. Accordingly, notice of dismissal may not be served on the Council's Head of Paid Service, its Monitoring Officer or Chief Finance Officer until and unless full Council have approved the dismissal.

#### 7.2 The Council may not dismiss its Head of Paid Service, its Chief Finance Officer or its Monitoring Officer, as the case may be, unless the provisions set out in paragraphs 7.2.1 to 7.2.9 have been complied with.

- **7.2.1** The Council must appoint a Committee (the Panel) under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of Officers referred to in paragraph 7.1 above.
- **7.2.2** The Council must invite relevant independent persons (as defined in paragraph 7.2.3) to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
- **7.2.3** For the purposes of paragraphs 7.2.2 to 7.2.5 "relevant independent person" means any independent person appointed by the Council under section 28(7) of the Localism Act 2011 or, where there are fewer than two such persons, such independent persons as have been appointed by another local authority or authorities (under that same provision) as the Council considers appropriate.
- **7.2.4** Subject to paragraph 7.2.5, the Council must appoint to the Panel such relevant independent persons who have accepted an invitation pursuant to paragraph 7.2.2 in accordance with the following priority order:
  - (a) a relevant independent person who has been appointed by the Council and who is a local government elector in the Council's register of electors;
  - (b) any other relevant independent person who has been appointed by the Council;

- (c) a relevant independent person who has been appointed by another authority or authorities.
- **7.2.5** The Council is not required to appoint more than two relevant independent persons in accordance with paragraph 7.2.4 but may do so.
- **7.2.6** The Council must appoint any Panel at least 20 working days before the relevant meeting (as defined in paragraph 7.2.7).
- **7.2.7** For the purposes of paragraphs 7.2.6 to 7.2.8 "relevant meeting" means a meeting of the Council to consider whether or not to approve a proposal to dismiss its Head of Paid Service, its Chief Finance Officer or its Monitoring Officer, as the case may be.
- **7.2.8** Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account in particular:
  - (i) any advice, views or recommendations of the Panel;
  - (ii) the conclusions of any investigation into the proposed dismissal; and
  - (iii) any representations from the officer who is the subject of the proposed dismissal.
- **7.2.9** Any remuneration, allowances or fees paid by the Council 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 his/her role as an independent person under the Localism Act 2011.

## Item L

## PART 5

## CODES AND PROTOCOLS

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## Part 5

On their election or co-option to the Lewes District Council, members are required to sign an undertaking to comply with the authority's Code of Conduct.

The Code of Conduct, adopted by the authority on 19 July 2012 is set out below. It is made under Chapter 7 of the Localism Act 2011 and includes, as standing orders made under Chapter 7 of that Act and Schedule 12 of the Local Government Act 1972, provisions which require members to leave meetings in appropriate circumstances, while matters in which they have a personal interest are being considered.

## PART 1

## Code of Conduct of Members of the Council – General Provisions

#### 1 Introduction and Interpretation

- (1) The Code applies to you as a member of the authority, when acting in that capacity.
- (2) This Code is based upon seven principles fundamental to public service, which are set out in Appendix 1. You should have regard to these principles, they will help you to comply with the Code.
- (3) If you need guidance on any matter under this Code you should seek it from the authority's monitoring officer or your own legal adviser but it is entirely your responsibility to comply with the provisions of this Code.
- (4) It is a criminal offence to fail to notify the authority's monitoring officer of a disclosable pecuniary interest, to take part in discussions or votes at meetings, or to take a decision where you have a disclosable pecuniary interest, without reasonable excuse. It is also an offence to knowingly or recklessly provide false or misleading information to the authority's monitoring officer.
- (5) Any written allegation received by the authority that you have failed to comply with this Code will be dealt with by the authority under the arrangements which it has adopted for such purposes. If it is found that you have failed to comply with the Code, the authority has the right to have regard to this failure in deciding –
  - (a) whether to take action in relation to you, and
  - (b) what action to take.

- (6) Councillors must comply with any reasonable request by the Monitoring Officer, the Deputy Monitoring Officer or an investigating officer appointed by them, regarding the provision of information in relation to a complaint that alleges a breach of the Code of Conduct, and must comply with any formal standards investigation.
- (7) Councillors must not misuse the standards process by, for example, making trivial or malicious allegations against another councillor.
- (8) In this Code –

"authority" means Lewes District Council

"Code" means this Code of Conduct

"co-opted member" means a person who is not a member of the authority but who –

- (a) is a member of any committee or sub-committee of the authority; or
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority.

and who is entitled to vote on any question that falls to be decided at any meetings of that committee or sub-committee.

"meeting" means any meeting of

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority's or its executive's committees, subcommittees, joint committees, joint sub-committees, or area committees.

"member" includes a co-opted member.

"register of members' interests" means the authority's register of members' pecuniary and other interests established and maintained by the authority's monitoring officer under section 29 of the Localism Act 2011.

#### 2 Scope

- (1) Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority.

and references to your official capacity are construed accordingly.

- (2) this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) Where you act as a representative of your authority
  - (a) on another relevant 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.

#### 3 General Obligations

- (1) You must treat others with respect.
- (2) You must not
  - (a) do anything which may cause your authority to breach any of its equality duties (in particular set out in the Equality Act 2010);
  - (b) bully or harass any person;

(Bullying means offensive, intimidating, malicious or insulting behaviour, or an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

Harassment means unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual. For examples of conduct that constitute bullying or harassment, see Appendix 2.)

- (c) intimidate or improperly influence or attempt to intimidate or improperly influence any person who is or is likely to be-
  - (i) a complainant;
  - (ii) a witness; or
  - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- 4 You must 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, except where:
    - (i) you have the consent of the person authorised to give it;
    - (ii) you are required by law to do so;
    - the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is -
      - (a) reasonable and in the public interest; and
      - (b) made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
- 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

- 6 You
  - (a) must 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;
  - (b) must, when using or authorising the use by others of the resources of your authority
    - (i) act in accordance with your authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 7 (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by –
  - (a) your authority's chief finance officer; or
  - (b) your authority's' monitoring officer;

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## Part 2

## INTERESTS

### 8 Personal Interests

- (1) The interests described in paragraphs 8(3) and 8(5) are your personal interests and the interests in paragraph 8(5) are your pecuniary interests which are disclosable pecuniary interests as defined by section 30 of the Localism Act 2011.
- (2) If you fail to observe Parts 2 and 3 of the Code in relation to your personal interests
  - (a) the authority may deal with the matter as mentioned in paragraph 1(5) and
  - (b) if the failure relates to a disclosable pecuniary interest, you may also become subject to criminal proceedings as mentioned in paragraph 1(4).
- (3) You have a personal interest in any business of your authority where either
  - (a) it relates to or is likely to affect -
    - any body of which you are a member or in the position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body
      - (a) exercising functions of a public nature;
      - (b) directed to charitable purposes; or
      - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or are in a position of general control or management;

- (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50; or
- (b) 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 (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

- (4) In sub-paragraph (3)(b), a relevant person is
  - (a) a member of your family or a close associate; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in sub-paragraph (3)(a)(i) or (ii).
- (5) Subject to sub-paragraph (6), you have a disclosable pecuniary interest as defined by section 30 of the Localism Act 2011 in any business of your authority where (i) you or (ii) 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) has any interest within the following descriptions:

Interest	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

Interest	Description
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions:

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner, or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

"director" includes a member of the committee of management of an industrial and provident society;

"land" includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

"M" means the person M referred to in section 30 of the Localism Act 2011;

"member" includes a co-opted member;

"relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Localism Act 2011;

"relevant person" means M or any other person referred to in section 30(3)(b) of the Localism Act 2011;

"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

(6) In sub-paragraph (5), any interest which your partner may have is only treated as your interest if you are aware that your partner has the interest.

#### 9 Disclosure of Personal Interests (See also Part 3)

- (1) Subject to sub-paragraphs (2) to (5), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which any matter relating to the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (3) Where you have a personal interest but, by virtue of paragraph 14, 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 and, if also applicable, that it is a disclosable pecuniary interest, but need not disclose the sensitive information to the meeting.
- (4) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision on any matter in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (5) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

#### **10** Prejudicial Interest Generally

(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where either –

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- (a) the interest is a disclosable pecuniary interest as described in paragraph 8(5); or
- (b) 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.
- (2) For the purposes of sub-paragraph (1)(b), you do not have a prejudicial interest in any business of the authority where that business
  - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
  - (c) relates to the functions of your authority in respect of
    - housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
    - school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
    - statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
    - (iv) an allowance, payment or indemnity given to members;
    - (v) any ceremonial honour given to members; and
    - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

#### 11 Interests Arising in Relation to Overview and Scrutiny Committees

You also have a personal interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where –

- that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your 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.

#### 12 Effect of Prejudicial Interests on Participation

- (1) Subject to sub-paragraph (2) and (3), where you have a prejudicial interest in any matter in relation to the business of your authority –
  - (a) you must not participate, or participate further, in any discussion of the matter at any meeting, or participate in any vote, or further vote, taken on the matter at the meeting and must withdraw from the room or chamber where the meeting considering the matter is being held –
    - in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the matter is being considered at that meeting;

unless you have obtained a dispensation from your authority's monitoring officer or standards committee;

- (b) you must not exercise executive functions in relation to that matter; and
- (c) you must not seek improperly to influence a decision about that matter.
- (2) Where you have a prejudicial interest in any business of your authority which is not a disclosable pecuniary interest as described in paragraph 8(5), you may attend a meeting (including a meeting of the overview and scrutiny committee of

your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(3) Where you have a prejudicial interest which is not a disclosable pecuniary interest as described in paragraph 8(5), arising solely from membership of any body described 8(3)(a)(i) or 8(3)(a)(ii)(a) then you do not have to withdraw from the room or chamber and may make representations to the committee but may not participate in the vote.

## Part 3

## **REGISTRATION OF INTERESTS**

## 13 Registration of members' interests

- (1) Subject to paragraph 14, you must, within 28 days of -
  - (a) this Code being adopted by the authority; or
  - (b) your election or appointment to office (where that is later), register in the register of members' interests details of
    - (i) your personal interests where they fall within a category mentioned in paragraph 8(3)(a) and
    - (ii) your personal interests which are also disclosable pecuniary interests where they fall within a category mentioned in paragraph 8(5)

by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest falling within sub-paragraphs (1)(b)(i) or (1)(b)(ii) or any change to any personal interest registered under sub-paragraphs (1)(b)(i) or (1)(b)(ii), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

#### 14 Sensitive Information

- (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, the monitoring officer shall not include details of the interest on any copies of the register of members' interests which are made available for inspection or any published version of the register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in the register of members' interests.
- (3) In this Code, "sensitive information" means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

#### 15 Dispensations

- (1) The Audit and Governance committee, or any sub-committee of the Audit and Governance committee, or the monitoring officer may, on a written request made to the monitoring officer of the authority by a member, grant a dispensation relieving the member from either or both of the restrictions in paragraph 12(1)(a) (restrictions on participating in discussions and in voting), in cases described in the dispensation.
- (2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the Audit and Governance committee, its sub-committee, or the monitoring officer -
  - (a) considers that without the dispensation the number of persons prohibited by paragraph 12 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
  - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
  - (c) considers that granting the dispensation is in the interests of persons living in the authority's area;
  - (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by paragraph 12 from participating in any particular business to be transacted by the authority's executive; or
  - (e) considers that it is otherwise appropriate to grant a dispensation.
- (3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Paragraph 12 does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph.

**Note from Monitoring Officer:** Councillors are reminded that quite apart from the Code of Conduct, section 106 of the Local Government Finance Act 1992 restricts the rights of Councillors who are two months or more in arrears with their council tax payments. Any such member must disclose the fact and must not vote at any meeting on decisions being taken which might affect the level of the council tax or the arrangements for administering it. Failure to comply is a criminal offence.

#### Appendix 1

## CODE OF CONDUCT OF MEMBERS

As a member or co-opted member of Lewes District Council I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

#### The Seven Principles of Public Life

#### Selflessness

1 Members should act solely in terms of the public interest.

#### Integrity

2 Members must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

#### Objectivity

3 Members must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### Accountability

4 Members are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### Openness

5 Members should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### Honesty

6 Members should be truthful.

#### Leadership

7 Members should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

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#### Appendix 2

## Non-exhaustive Examples of Bullying and Harassment

With reference to paragraph 3(2)(b) of this Code -

- (1) Examples of bullying behaviour include, without limitation:
  - spreading malicious rumours, or insulting someone by word or behaviour
  - copying memos that are critical about someone to others who do not need to know
  - ridiculing or demeaning someone picking on them or setting them up to fail
  - exclusion or victimisation
  - unfair treatment
  - overbearing supervision or other misuse of power or position
  - unwelcome sexual advances touching, standing too close, display of offensive materials, asking for sexual favours, making decision on the basis of sexual advances being accepted or rejected.
  - making threats or comments about job security without foundation
  - deliberately undermining a competent worker by overloading or constant criticism
  - preventing individuals progressing by intentionally blocking promotion or training opportunities
  - invading someone's personal space
  - speaking to someone in an overbearing manner
  - using aggressive body language
  - undermining or belittling someone
  - any of the behaviours listed above, occurring on a single, repeated or habitual basis
- (2) Examples of harassment include, without limitation:
  - making abusive, derogatory, patronising, suggestive or sexualised comments or sounds
  - making jokes or insulting gestures or facial expressions
  - ridicule
  - offensive e-mails, tweets or comments on social networking sites
  - trolling via social networking sites
  - threats of aggression or intimidation
  - making false and malicious assertions
  - intrusive questioning about private matters
  - display of offensive material
  - unwanted comments on dress or appearance
  - any of the behaviours listed above, occurring on a single, repeated or habitual basis.

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## PART 5

# Register of Interests of Members and Co-opted Members of the Council

Under Section 29 of the Localism Act 2011, the Council's Monitoring Officer is responsible for establishing and maintaining a register of financial and other interests of the members and any co-opted members of the Council.

The register can be inspected by contacting the Head of Democratic Services at the offices of Lewes District Council at Southover House, Southover Road, Lewes, East Sussex BN7 1AB between the hours of 9.00am to 5.00pm Monday to Friday.

All members of the Council are informed of their obligation to inform the Council's Monitoring Officer of any changes to their interests and the Monitoring Officer will record those changes in the register as soon as practicable.

The availability of the register, and the address at which it may be seen, has been advertised in a newspaper circulating in the area of Lewes District.

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#### LEWES DISTRICT COUNCIL CODE OF CORPORATE GOVERNANCE

CORE PRINCIPLE 1: Focusing on the purpose of Lewes District Council and on outcomes for the community and creating and implementing a vision for the local area

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed, target date and officer responsible
1.1		strict Council will exercise strategic lea ed outcomes for citizens and service u		ly communicating the Council's
a)	Develop and promote the Council's purpose and vision	<ul> <li>Council Plan</li> <li>Council Tax Leaflet</li> <li>District News</li> <li>Website</li> <li>Internal communications to staff</li> <li>Hosted events</li> </ul>	<ul> <li>Council</li> <li>Cabinet</li> <li>Corporate Management Team</li> </ul>	Council Plan published by March 2016 to cover the period 2016-20. It will be reviewed annually. Head of Business Strategy and Performance
b)	Review on a regular basis the Council's vision for the local area and its impact on the Council's governance arrangements	<ul> <li>Review following district council elections</li> <li>Annual review as part of business planning process</li> <li>Review of Lewes District Council Code of Corporate Governance</li> </ul>	<ul> <li>Cabinet</li> <li>Corporate Management Team</li> <li>Reviewed annually by the Head of Audit, Fraud and Procurement and monitored by the Audit and Governance Committee through an annual update report</li> </ul>	Review of the Council's vision as part of the Council Plan annual review. Ongoing. Head of Business Strategy and Performance
c)	Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all partners.	<ul> <li>Partnership agreements with associated governance arrangements</li> <li>Review of Lewes District Council Code of Corporate Governance</li> <li>Guidance for partnership working</li> <li>Project Initiation Documents</li> <li>Corporate Management Team sign off for new projects</li> </ul>	<ul> <li>Cabinet</li> <li>Corporate Management Team</li> <li>Project Lead Officers</li> <li>Head Of Business Strategy and Performance</li> </ul>	Review of partnership arrangements annually to take account any changes brought about by the Joint Transformation Programme. Ongoing Head of Business Strategy and Performance
d)	Publish an annual report to	Council Plan	Cabinet	Annual performance report

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed, target date and officer responsible
	communicate the Council's activities and achievements, its financial position and performance	<ul> <li>Whole year performance report to Cabinet in June each year</li> <li>Annual Statement of Accounts</li> <li>Annual Governance Statement</li> <li>Medium Term Financial Strategy</li> <li>Data transparency pages on web site</li> </ul>	<ul> <li>Corporate Management Team</li> <li>Audit and Governance Committee</li> <li>Director of Corporate Services</li> <li>External Audit</li> </ul>	published June 2016 <b>Head of</b> <b>Business Strategy and</b> <b>Performance</b>
1.2		strict Council will ensure that users	receive a high quality service	e of service whether directly, or
a)	in partnership or by commission Decide how the quality of service for users is to be measured and make sure the information needed to review service quality is available	<ul> <li>Council Plan</li> <li>Key Performance Indicators</li> <li>Medium Term Financial Strategy</li> <li>Quarterly Portfolio monitoring reports to Scrutiny and Cabinet</li> <li>Service plans</li> <li>Customer surveys and feedback</li> <li>Complaints and compliments</li> </ul>	<ul> <li>Cabinet</li> <li>Corporate Management Team</li> <li>Extended Corporate Management Team</li> <li>Service Managers</li> </ul>	Service plans containing KPIs and targets published internally by March 2016 Head of Business Strategy and Performance
b)	Put in place effective arrangements to identify and deal with failure in service delivery	<ul> <li>Complaints procedure and associated reporting arrangements</li> <li>Customer surveys and feedback</li> <li>Performance reports considered by Scrutiny Committee ahead of Cabinet each quarter. This includes performance action plans to address underperformance.</li> </ul>	<ul> <li>Cabinet</li> <li>Corporate Management Team</li> <li>Policy and Performance Committee</li> </ul>	Performance reported quarterly to Scrutiny Committee. Ongoing. <b>Head of Business</b> <b>Strategy and Performance</b>
1.3	Supporting Principle: Lewes Dis users receive excellent value for	strict Council will ensure the Council m	akes best use of resources and	that tax payers and service
a)	Decide how value for money is to be measured and make sure the authority has the information needed to review value for money and performance	<ul> <li>Internal assessment of value for money to meet the requirement of the Use of Resources assessment undertaken by the external auditor</li> <li>Annual Governance report from</li> </ul>	Corporato managoment	

Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed, target date and officer responsible
effectively. Measure the environmental impact of policies, plans and decisions	<ul> <li>External Audit including Use of Resources conclusion measured against the reporting criteria</li> <li>Council Plan</li> <li>Service Plans</li> <li>Partnership agreements, reports and minutes</li> <li>Inviting external challenge</li> </ul>	Committee <ul> <li>Scrutiny Committee</li> </ul>	

## CORE PRINCIPLE 2: Members and officers working together to achieve a common purpose with clearly defined functions and roles

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
2.1		strict Council will ensure effective leader the roles and responsibilities of the scru		and being clear about executive
a)	State the respective roles and responsibilities of the executive and the executive's members individually, and the Council's approach towards putting this into practice	<ul> <li>Part 2, Article 7 of the Constitution sets out the role and responsibilities of the Leader and Cabinet</li> <li>Part 3 of the Constitution (responsibility for functions – sets out how the Leader has power to shared executive powers between himself, Cabinet and individual Lead Councillors)</li> </ul>	<ul> <li>Assistant Director Corporate Services</li> <li>Council</li> <li>Appointed Councillors</li> </ul>	Revising responsibilities for executive function on ongoing basis to accord with wishes of Leader. <b>Ongoing – Head of</b> <b>Democratic Services</b>
b)	State the respective roles and responsibilities of other Council members, members generally and of senior officers	<ul> <li>Councillors</li> <li>Roles and responsibilities defined in Part 12 of Constitution (Role Profiles)</li> <li>Senior Officers</li> <li>Part 2, Article 12 of the Constitution sets out the functions and areas of responsibilities of individual chief officers.</li> </ul>	<ul> <li>Assistant Director Corporate Services</li> <li>Council</li> </ul>	Revising responsibilities for executive function on ongoing basis to accord with wishes of Leader. <b>Ongoing – Head of</b> <b>Democratic Services</b>

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance • Senior Officer roles (including statutory officers) set out in Scheme of Delegation to Officers (Part 9 of Constitution)	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
		Management structure of the Council set out in Part 8 of the Constitution.		
2.2		strict Council will ensure that a construct of members and officers are carried out		between authority members and
a)	Determine a scheme of delegation and reserve powers within the Constitution, including a formal schedule of those matters specifically reserved for collective decision of the authority	<ul> <li>Scheme of Delegation to officers set out in Part 9 of the Constitution</li> <li>Delegation to Councillors set out in Part 11 of the Constitution</li> <li>Schedule of matters reserved to Council set out in Article 4.2</li> <li>Responsibility for Local Choice functions set out in Part 3 of the Constitution</li> </ul>	<ul> <li>Assistant Director Corporate Services</li> <li>Council</li> </ul>	
b)	Make a Chief Executive or equivalent responsible, and accountable to the authority, for all aspects of operational management	<ul> <li>Role of the Chief Executive laid down in Part 2 "Articles of the Constitution" and Part 9 "Officer Scheme of Delegation to Officers"</li> </ul>	Cabinet/ Council	
c)	Develop protocols to ensure that the Leader and Chief Executive understand and maintain their respective roles and objectives	<ul> <li>Leader/ Chief Executive protocol set out in paragraph 3 of Protocol on Councillor/ Officer Relations (Part 5 of the Constitution)</li> </ul>	Chief Executive and Monitoring Officer (Assistant Director Corporate Services)	
d)	Make a senior officer (the Section 151 Officer) responsible for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial	<ul> <li>Director of Corporate Services designated as Chief Finance Officer (Section 151 Officer) under Part 2 "Articles of the Constitution" and Part 4 "Financial Procedure Rules"</li> <li>Part 2 "Articles of the Constitution" sets out the functions of the Chief</li> </ul>	Cabinet/Council	

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
	control	<ul> <li>Finance Officer</li> <li>Statutory requirement to have a Section 151 Officer under Section 151 of the Local Government Act 1972</li> </ul>		
e)	Make a senior officer (usually the Monitoring Officer) responsible for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with	<ul> <li>Assistant Director Corporate Services designated as Monitoring Officer under Part 2 "Articles of the Constitution"</li> <li>Part 2 "Articles of the Constitution" sets out the functions of the Monitoring Officer (Assistant Director of Corporate Services)</li> <li>Head of Audit , Fraud and Procurement</li> <li>Statutory requirement to have a monitoring officer under Section 5 of the Local Government and Housing Act 1989</li> </ul>	Cabinet/Council	
2.3	Supporting principle: Lewes Dis that each knows what to expect o	trict Council will ensure that relationship the other.	bs between the Council, its par	rtners and the public are clear so
a)	Develop protocols to ensure effective communication between members and officers in their respective roles	Part 5 of the Constitution "Codes and Protocols" includes the Members Code of Conduct and the Protocol on Member/Officer Relations	<ul> <li>Chief Executive and Monitoring Officer (Assistant Director Corporate Services)</li> <li>Audit and Governance Committee</li> </ul>	
b)	Set out terms and conditions for remuneration of members and officers and an effective structure for managing the	Councillors <ul> <li>Members' Allowances Scheme is set out in Part 7 of the Constitution</li> </ul> Staff	Councillors <ul> <li>Independent Panel <ul> <li>advises on Members</li> <li>Allowance Scheme/Head</li> </ul> </li> </ul>	Recommendation of Independent Remuneration Panel from 2014 to be reconsidered after October

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
	process, including an effective remuneration panel (if applicable)	<ul> <li>Job conditions and specifications</li> <li>Job descriptions</li> <li>Job evaluation scheme</li> <li>Pay and conditions of service</li> <li>Annual appraisals to agree annual service targets</li> <li>Annual Pay Policy Statement</li> </ul>	of Democratic Services <b>Staff</b> • Head of Organisational Development/ Corporate Management Team	2016 Head of Democratic Services
c)	Ensure that effective mechanisms exist to monitor service delivery	<ul> <li>Quarterly monitoring report to Cabinet and Scrutiny Committee on key actions and performance indicators</li> <li>Service plans and associated monitoring</li> <li>Scrutiny of performance by Scrutiny Committee</li> <li>Council Plan quarterly monitoring report to Corporate Management Team</li> <li>Performance/project management system (Covalent)</li> </ul>	<ul> <li>Cabinet/ Portfolio Holders</li> <li>Scrutiny Committee</li> <li>Corporate Management Team</li> <li>Extended Corporate Management Team</li> <li>Directorate Management Teams</li> </ul>	
d)	Ensure that the organisation's vision, strategic plans, priorities and targets are developed in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated	<ul> <li>Council Plan</li> <li>Quarterly monitoring to Scrutiny Committee/Cabinet</li> <li>Medium Term Financial Strategy</li> <li>Consultation and engagement processes</li> </ul>	<ul> <li>Council</li> <li>Cabinet</li> <li>Corporate Management Team</li> </ul>	Engagement Strategy to be implemented from April 2016 Head of Business Strategy and Performance
e)	<ul> <li>When working in partnership, ensure that members are clear about:</li> <li>Their roles and responsibilities both</li> </ul>	<ul> <li>Cabinet/Council Decisions</li> <li>Guidance for partnership working</li> </ul>	<ul> <li>Cabinet</li> <li>Corporate Management Team</li> <li>Partnership Lead Officers</li> </ul>	Partnership guidance to be disseminated once updated by March 2016. Head of Business Strategy and Performance

Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
<ul> <li>individually and collectively in relation to the partnership and the Council</li> <li>The legal status of the partnership</li> <li>The extent of their authority to bind their organisation to partner decisions</li> </ul>		Head of Business Strategy and Performance	

## CORE PRINCIPLE 3: Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour.

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
3.1	Supporting Principle: Lewes Districe exemplify high standards of conduct	ct Council will ensure Council members and effective governance.	and officers exercise leadersh	ip by behaving in ways that
a)	Ensure that the Council's leadership creates a climate of openness, support and respect for the organisation	<ul> <li>Annual staff survey and report of its findings and action taken by management</li> <li>Dignity at Work Policy</li> <li>Equalities Working Group</li> <li>Welfare Support contacts</li> <li>Infolink</li> <li>Team Briefing system</li> <li>LDC News <ul> <li>Leadership and development programme for Corporate</li> <li>Management Team and managers</li> </ul> </li> </ul>	<ul> <li>Corporate Management Team</li> <li>Employment Committee</li> <li>Head of Organisational Development</li> <li>Chief Executive</li> </ul>	
b)	Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the Council's, its partners and the community are defined and	<ul> <li>Members' Code of Conduct</li> <li>Anti fraud and corruption strategy</li> <li>Whistle blowing policy</li> <li>Anti Bribery Policy</li> <li>Officers' Code of Conduct</li> </ul>	<ul> <li>Monitoring Officer (Assistant Director Corporate Services)</li> <li>Audit and Governance Committee for Councillors</li> </ul>	Revised Whistleblowing Policy published by end of March 2016 HR Manager and Head of Audit, Fraud and

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
	communicated through codes of conduct and protocols	<ul> <li>Relevant Contract Conditions for Outside Contractors</li> <li>Council's Disciplinary and Grievance Procedures</li> <li>Complaints Procedure and associated reporting arrangements</li> <li>Dignity at Work Policy</li> <li>Guidance for partnership working</li> <li>Annual Assurance Statements completed by Corporate Management Team</li> <li>Staff induction programme</li> <li>Declaration of Related Party Transactions by Councillors and Heads of Service</li> <li>Register of Interests forms for Councillors from July 2012 to record "disclosable pecuniary interests" of members and their partners in accordance with Localism Act 2012</li> </ul>	<ul> <li>Chief Executive/ Directors/Service Heads for Officers</li> <li>Head of Organisational Development maintains and updates the Officer Code of Conduct when necessary</li> <li>Head of Audit, Fraud and Procurement</li> </ul>	Procurement
c)	Put in place arrangements to ensure that members and employees of the Council are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders	<ul> <li>Constitution; Contract Procedure Rules; Local Code of Conduct for Planning; Financial Procedure Rules</li> <li>Councillor Protocol for Procurement</li> <li>Councillor and officer codes of conduct</li> <li>Register of Interests forms for Councillors from July 2012 to record "disclosable pecuniary interests" of members and their partners in accordance with</li> </ul>	<ul> <li>Advice from the Monitoring Officer/ Director of Corporate Services and Head of Audit, Fraud and Procurement</li> <li>Head of Organisational Development</li> <li>External Audit</li> </ul>	

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
		<ul> <li>Localism Act 2012</li> <li>Hospitality and Trips Abroad Register for Councillors</li> <li>Hospitality and Trips Abroad Register for Officers</li> <li>Register of Interests of Officers</li> <li>Declaration of Related Party Transactions by Councillors and Heads of Service</li> </ul>		
3.2		ct Council will ensure that organisationa	al values are put in practice and	are effective.
a)	Develop and maintain shared values for both the organisation and staff reflecting public expectations, and communicate these with members, staff, the community and partners	<ul> <li>Members' Code of Conduct</li> <li>Officers' Code of Conduct</li> <li>Training of Councillors on the Code of Conduct as part of the Induction Programme</li> <li>Guidance for partnership working and systems which form part of that guidance</li> <li>Staff appraisals and training</li> </ul>	<ul> <li>Monitoring Officer (Assistant Director Corporate Services)</li> <li>Audit and Governance Committee for Members and Chief Executive and Directors for officers</li> </ul>	
b)	Put in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice	<ul> <li>Members' Code of Conduct.</li> <li>Officers' Code of Conduct</li> <li>Training of Councillors and staff on the Codes of Conduct as part of the Induction Programme</li> </ul>	<ul> <li>Monitoring Officer (Assistant Director Corporate Services)</li> <li>Audit and Governance Committee for Councillors</li> <li>Chief Executive and Directors for officers</li> </ul>	Interim training for Leader and other key councillors when they change their roles mid-term <b>Ongoing – Head of</b> <b>Democratic Services</b>
c)	Develop an effective Standards Committee	<ul> <li>Audit and Governance Committee in place with remit set out in Part 11 of the Constitution</li> <li>Composition, role and function of the Committee are set out in the Articles of the Constitution (Part 2 – Article 9).</li> </ul>	Assistant Director Corporate Services	

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
e)	Agree a set of values for partnerships against which decision making and actions can be judged	<ul> <li>Partnership agreements</li> <li>Guidance for partnership working</li> </ul>	<ul> <li>Cabinet</li> <li>Corporate Management Team</li> <li>Partnership Lead Officers</li> <li>Head of Business Strategy and Performance</li> </ul>	Partnership guidance to be disseminated once updated by March 2016 Head of Business Strategy and Performance

CORE PRINCIPLE 4: Taking informed and transparent decisions which are subject to effective scrutiny and risk management

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
4.1	Supporting Principle: Lewes District Council will be rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny			
a)	Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the Council's performance	<ul> <li>Scrutiny Procedure Rules (Part 4 of the Constitution). These include arrangements for meetings, conducting reviews, councillors and officers giving account and call in of executive decisions</li> <li>Annual Scrutiny Budget Review</li> </ul>	<ul> <li>Cabinet</li> <li>Council</li> <li>Head of Business Strategy and Performance</li> </ul>	
b)	Maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based	<ul> <li>Rules of procedure – Access to Information (Part 4, Procedure Rule 5 of the Constitution)</li> <li>Protocol on key decisions (Part 5 of the Constitution)</li> <li>Decision Making (Part 2, Article 13 of the Constitution)</li> <li>Published minutes and reports</li> <li>Publish decisions taken by the Leader/ Lead Councillors</li> </ul>	<ul> <li>Regularly reviewed at Cabinet/Council.</li> </ul>	

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
		<ul> <li>Financial control procedure for Leaders' approved use of resources</li> </ul>		
c)	Put in place arrangements to safeguard members and employees against conflicts of interest and ensure that they continue to operate in practice	<ul> <li>Code of Conduct for members of the Council (Part 5 of Constitution)</li> <li>Officers Code of Conduct (Part 5 of Constitution)</li> <li>Protocol on member/ officer relations (Part 5 of Constitution)</li> <li>Register of Interests of Members and Co-opted Members of the Council</li> <li>Councillor Protocol for Procurement</li> <li>Hospitality Register for Councillors</li> <li>Hospitality Register for Officers</li> <li>Register of Interests of Officers</li> </ul>	<ul> <li>Regularly updated and reviewed at Cabinet/ Council</li> <li>Assistant Director Corporate Services</li> </ul>	
d)	Develop and maintain an effective Audit Committee which is independent of the executive and scrutiny function	<ul> <li>Remit of the Audit and Governance Committee at –Part 11 of the Constitution</li> <li>Comprehensive training programme provided to the Audit and Governance Committee</li> </ul>	<ul> <li>Regularly updated and reviewed at Cabinet/ Council.</li> <li>Head of Audit, Fraud and Procurement</li> <li>External Audit</li> </ul>	
e)	Ensure that effective, transparent and accessible arrangements are in place for dealing with complaints	<ul> <li>Complaints procedure and associated reporting to Corporate Management Team</li> <li>Annual report on complaints to Cabinet</li> </ul>	<ul> <li>Complaints Panel</li> <li>Corporate Management Team</li> <li>Cabinet</li> </ul>	

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
a)	Ensure those making decisions for the Council or partnerships are provided with information that is fit for purpose, relevant, timely and gives clear explanations of technical issues and their implications	<ul> <li>Data Quality checks built into Covalent implementation</li> <li>Guidance for partnership working – protocol for data quality and information sharing</li> <li>Data Sharing Policy</li> <li>Data transparency policy and guidance note</li> </ul>	<ul> <li>Audit and Governance Committee</li> <li>External Audit</li> <li>Director of Corporate Services</li> <li>Head of Business Strategy and Performance</li> </ul>	Review Data Quality guidance in light of move to Covalent by April 2016 <b>Head</b> of Business Strategy and Performance
b)	Ensure that professional advice on matters that have legal or financial implications is available well in advance of decision making	<ul> <li>Checklist for decision makers which includes guidance for both finance and legal matters.</li> <li>Assessment of finance and legal implications for Committee reports</li> <li>Records of decisions made by Committees and the Leader/ Lead Councillors on website</li> <li>Records of Leader's decisions on use of reserves recorded and reported to the next Cabinet meeting</li> </ul>	<ul> <li>Assistant Director Corporate Services</li> <li>Director of Corporate Services</li> </ul>	
4.3	Supporting principle: Lewes Distric	t Council will ensure that effective risk	management is in place	
a)	Ensure that risk management is embedded into the culture of the authority	<ul> <li>Guidance on risk to support reports to Cabinet and Committees</li> <li>Risk management framework to support the Council's risk management strategy</li> <li>Risks identified as part of annual</li> </ul>	<ul> <li>Lead Councillor for risk management</li> <li>Chief Executive and Corporate Management Team</li> <li>Head of Audit, Fraud and Procurement</li> </ul>	

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
		<ul> <li>service planning process</li> <li>Risk management briefing notes and focused member/officer training</li> </ul>	External Audit	
b)	Ensure that effective arrangements for whistle blowing are in place to which officers, staff and all those contracting with or appointed by the authority have access	<ul> <li>Whistle Blowing Policy in place and periodically reviewed</li> <li>Contract manual guidance</li> <li>Annual Assurance Statement completed by each member of Corporate Management Team</li> </ul>	<ul> <li>Directors and Heads of Service, Head of Audit, Fraud and Procurement and Monitoring Officer</li> <li>Employment Committee</li> <li>Audit and Governance Committee</li> </ul>	Revised Whistleblowing Policy published by end of March 2016. <b>HR Manager</b> and Head of Audit, Fraud and Procurement
4.4	Supporting principle: Lewes Distri	ct Council will use its legal powers to t	he full benefit of the citizens and	communities in its area
a) b)	Recognise the limits of lawful activity and observe both the specific requirements of legislation and the general responsibilities placed on authorities by public law Observe all specific legislative requirements and integrate the key principles of good administrative law - rationality legality and natural justice – into the decision making processes	<ul> <li>Part 2 (Article 12) of the Constitution sets out the functions of the Monitoring Officer</li> <li>Statutory requirement for a Monitoring Officer under Section 5 of the Local Government and Housing Act 1989</li> </ul>	<ul> <li>Monitoring Officer (Assistant Director Corporate Services).</li> </ul>	

## CORE PRINCIPLE 5: Developing the capacity and capability of members and officers to be effective

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
5.1	Supporting principle: Lewes Distric resources they need to perform well	et Council will make sure that members in their roles.	s and officers have the skills, kno	owledge, experience and
a)	Provide induction programmes	Councillors	Councillors	Interim training for Leader

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
	tailored to individual needs and opportunities for members and officers to update their knowledge on a regular basis	<ul> <li>Councillor's Induction Programme organised on a four yearly basis to link into District Council elections</li> <li>Individual Councillor training needs are reviewed annually</li> <li>Specialised training on specific areas of activity/responsibility is organised by officers as required eg. on planning and scrutiny matters</li> <li>All Council Committees invited to identify training arising from their work programme</li> <li>Staff</li> <li>Established induction programme for new staff</li> <li>Annual training needs analysis for each member of staff</li> <li>Annual training plan for staff Plan is subject to review after six months</li> </ul>	<ul> <li>Feedback on individual events gained as required</li> <li>Survey undertaken before election time to identify training needs for the new induction programme</li> <li>Head of Democratic Services/ Head of Organisational Development</li> <li>Staff</li> <li>Head of Organisational Development</li> <li>Departmental managers</li> <li>Training coordinators</li> </ul>	and other key councillors when they change their roles mid-term <b>Ongoing – Head</b> of <b>Democratic Services</b>
b)	Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the authority	<ul> <li>Job description and person specifications of Corporate Management Team</li> <li>Professional qualifications for statutory roles of Corporate Management Team</li> <li>Recruitment procedures ensure mandatory requirements are met.</li> <li>Leadership and development training</li> </ul>	<ul> <li>Chief Executive</li> <li>Head of Organisational Development</li> </ul>	

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
5.2	Supporting principle: Lewes Distr evaluate their performance	ict Council will develop the capabili	ty of people with governance	responsibilities and
a)	Assess the skills required by members and officers and make a commitment to develop those skills to enable roles to be carried out effectively	<ul> <li>Councillors</li> <li>Individual Councillor training needs are reviewed annually and appropriate training provided</li> <li>All Council Committees are invited to identify training arising from their work programme on an annual basis.</li> <li>Councillors cannot sit on the Planning or Licensing Committee unless they have had training</li> <li>Staff</li> <li>Annual development plan for each member of staff</li> <li>Training programme drawn up each year for staff based on training needs analysis. Plan is subject to review annually</li> <li>Leadership and development training for all managers</li> </ul>	Head of Democratic Services/ Head of Organisational Development	Training and Development Programme for Councillors' to be implemented by March 2017 Head of Democratic Services
b)	Develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed	<ul> <li>All Council Committees are invited to identify training arising from their work programme</li> <li>Councillors participate in standard IT courses</li> </ul>	<ul> <li>Head of Organisational Development/Head of Democratic Services/ Head of Finance</li> <li>Head of Audit, Fraud and Procurement for Audit and</li> </ul>	

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
c)	Ensure that effective arrangements are in place for reviewing the performance of the executive as a whole and of individual members, and agreeing an action plan to address any training or development needs	<ul> <li>The Council, Committees and Cabinet are invited to identify training arising from their work programme.</li> <li>Individual Councillor training needs are reviewed annually and appropriate training provided</li> </ul>	<ul> <li>Governance Committee</li> <li>Head of Organisational Development/Head of Democratic Services</li> </ul>	
5.3	Supporting principle: Lewes Distric individuals skills and resources in ba	t Council will encourage new talent fo	r membership of the authority sc	that best use can be made of
a)	Ensure that effective arrangements are in place to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority	<ul> <li>Public Meetings</li> <li>Local Development Framework</li> <li>Neighbourhood Plans</li> <li>Tenants Groups</li> <li>Scrutiny Committee</li> <li>Cabinet/Council Meetings</li> <li>Annual consultation process with Town and Parish Councils</li> <li>Local elections – publicity and guidance available to prospective candidates</li> <li>General petitions scheme and e – petitions</li> </ul>	<ul> <li>Council, Cabinet and Scrutiny Committee</li> <li>Corporate Management Team</li> <li>Head of Business Strategy and Performance</li> <li>Head of Democratic Services</li> </ul>	Engagement Strategy to be implemented from April 2016 Head of Business Strategy and Performance
b)	Ensure that career structures are in place for members and officers to encourage participation and development	<ul> <li>Career grades in place for specific hard to fill posts</li> <li>Annual development plan for each member of staff</li> </ul>	Head of Organisational     Development	

CORE PRINCIPLE 6: Engaging with local people and other stakeholders to ensure robust public accountability

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
6.1	Supporting principle: Lewes District people and all local institutional stake			
a)	Make clear to themselves, all staff and the community to whom they are accountable and for what	<ul> <li>Council Plan</li> <li>District News</li> <li>Website</li> <li>Scrutiny Committee</li> <li>Report back by Councillors to Council on their work with outside bodies which they are nominated to by the Council</li> </ul>	<ul> <li>Council</li> <li>Cabinet</li> <li>Corporate Management Team</li> </ul>	Trialling of a number of options to encourage public attendance and add interest to Full Council meetings Ongoing – Head of Democratic Services
b)	Consider those institutional stakeholders to whom the authority is accountable and assesses the effectiveness of the relationship and any changes required	<ul> <li>Guidance for partnership working and annual review of key partnerships</li> </ul>	<ul> <li>Council</li> <li>Cabinet</li> <li>Corporate Management Team</li> <li>Partnership Lead Officers</li> </ul>	Officer implementation of partnership guidance Ongoing – Partnership Lead Officers
c)	Produce an annual report on the activity of the scrutiny function	Annual report on scrutiny function	Council	Reporting integrated into Annual Performance Report in June each year. Ongoing. Head of Business Strategy and Performance
6.2	<b>Supporting principle</b> : Lewes District ensure effective and appropriate service			nd accountability to the public to
a)	Ensure clear channels of communication with all sections of the community and other stakeholders, and ensure effective monitoring arrangements	<ul> <li>District News</li> <li>Business Strategy and Performance Team</li> <li>Neighbourhood Plans</li> <li>LDC website</li> <li>Council Plan</li> <li>Annual Business Rates consultation</li> <li>Voluntary Sector Compact</li> </ul>	<ul> <li>Council</li> <li>Cabinet/Portfolio Holders</li> <li>Scrutiny Committee</li> <li>Corporate Management Team</li> <li>Head of Business Strategy and Performance</li> </ul>	Engagement Strategy to be implemented from April 2016 Head of Business Strategy and Performance

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
b)	Hold meetings in public unless there are good reasons for confidentiality	<ul> <li>Equality Policy</li> <li>Rights to attend meetings rule 3 in Part 4 of the Constitution (Access to Information Procedure Rules)</li> <li>Article 3 -Citizens rights to attend meetings in Part 2 - Articles of the Constitution</li> </ul>	Head of Democratic Services	
c)	Ensure that arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands	<ul> <li>Comprehensive Equality Policy</li> <li>Forums and groups</li> <li>Business Charter</li> <li>Annual Business Rates consultation</li> </ul>	<ul> <li>Corporate Management Team</li> <li>Equalities Working Group</li> <li>Cabinet</li> <li>Head of Business Strategy and Performance</li> </ul>	Engagement Strategy to be implemented from April 2016 Head of Business Strategy and Performance
d)	Establish a policy on consultation with the public and service users, including a feedback mechanism for consultees to demonstrate what has changed as a result	<ul> <li>Service specific consultation and feedback</li> <li>District News</li> <li>Website</li> </ul>	<ul> <li>Corporate Management Team</li> <li>Head of Business Strategy and Performance</li> </ul>	Engagement Strategy to be implemented from April 2016 Head of Business Strategy and Performance
e)	Publish an annual performance plan giving information on the authority's vision strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period	<ul> <li>Council Plan</li> <li>Annual Performance Report</li> <li>Statement of Accounts presented to and approved by the Audit and Governance Committee and published annually</li> <li>Data transparency pages on website</li> </ul>	<ul> <li>Council</li> <li>Cabinet</li> <li>Corporate Management Team</li> <li>Audit and Governance Committee</li> </ul>	Annual performance report to Cabinet – June 2016 Head of Business Strategy and Performance
f)	Ensure that the authority as a whole is open and accessible to the community, service users and its	<ul> <li>Part 4 of the Constitution "Access to Information Procedure Rules"</li> </ul>	<ul> <li>Assistant Director Corporate Services</li> <li>Corporate Management</li> </ul>	

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
	staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so	<ul> <li>Freedom of Information Act and Environmental Information Regulations Policy</li> <li>Council Plan working principles</li> <li>Customer Charter</li> <li>Data transparency pages on website</li> <li>Current contract information on Contracts Finder</li> </ul>	Team • Head of Audit, Fraud and Procurement	
6.3	Supporting principle: Lewes District responsibility to staff	Council will make best use of humar	n resources by taking an active	and planned approach to meet

	Our local code will reflect the requirement to:	Systems / processes/ documentation demonstrating compliance	Responsibility for monitoring/review	Issues to be addressed and target date where known and officer responsible
a)	Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making	<ul> <li>Chief Executive briefing and feedback sessions for key messages.</li> <li>Team briefings with dissemination of Corporate Briefing Information</li> <li>Collective bargaining conducted by representatives of the employers and of the employees (Unison)</li> <li>Employment Committee is the formal mechanism for consultation between employers and employees</li> <li>Remit of the Employment Committee set out in Part 11 of the Constitution</li> <li>Policy on time off for trade union duties</li> <li>Chief Executive's blog</li> </ul>	<ul> <li>Head of Organisational Development</li> <li>Corporate Management Team</li> <li>Heads of Service</li> <li>Employment Committee</li> </ul>	

## Lewes District Constitution Part 5 – Codes and Protocols Updated: February 2021

# STRONGER together





Working in partnership with Eastbourne Homes

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Document type:	Policy

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## 1. Introduction

- 1.1. This Code is designed to ensure that the integrity of the council, its employees and its workers (casuals, agency and consultants) is maintained and that there is clear guidance on the conduct required of them while working for the council.
- 1.2. The Code describes the conduct required in a range of circumstances which you may come across as part of your duties. These are detailed below, but they are neither exhaustive nor exclusive and other circumstances will arise where you will have to consider what conduct the council would expect.
- 1.3. In such circumstances, you should realise that the council's (and your) principal aim is to serve the public, who expect a high standard of integrity and service. You should therefore, avoid doing anything that could reflect adversely on the council. If any doubt exists as to the proper course of action, seek advice from your manager or Head of Service.
- 1.4. This Code sets out the minimum standards of conduct that employees and workers are expected to observe when carrying out their duties. You should take time to read this and make sure you understand it. If you require clarification you should speak to your manager.

## 2. Scope

2.1 The Code applies to all employees and workers. Failure to adhere to the Code may result in disciplinary action and in some cases criminal prosecution, or termination of a contract for services.

## 3. Standards

- 3.1 You are expected to give the highest possible standard of service to the public, and where it is part of your duties, to provide appropriate advice to councillors and colleagues with impartiality.
- 3.2 In performing your duties, you must act with integrity, honesty, objectivity and without bias.

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- 3.3 Whether you work predominately in an office or from home you are expected to work efficiently and effectively, maintaining performance and standards as required by your Head of Service and in line with the Councils policies and procedures.
- 3.4 You are expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any impropriety or beach of procedure which would impact on the provision of the service.
- 3.5 You must comply with the council's Vision and Values and Competency Frameworks and any council policies which may have a bearing on how to conduct yourself, e.g. Equality and Fairness Policy, Dignity at Work Policy.

## 4. Disclosure of Information and Confidentiality

- 4.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public.
- 4.2 You must be aware of which information the council is and is not open about, and act accordingly.
- 4.3 No confidential information, politically or commercially sensitive information should be released to anyone without authorisation from your manager. No personal information, which is protected by the General Data Protection Regulation and Data Protection Act, should be released to anyone without authorisation from either your manager, the council's Data Protection Officer, or Information Governance Manager.
- 4.4 You should not use any information obtained in the course of your work for personal gain or benefit, nor should you pass it on to others who might use it in such a way.
- 4.5 You must not deal direct with the press or the media in relation to anything related to council business unless required to do so as part of your duties, or you have been expressly authorised by the council's Press Office (Cobb PR).

## 5. Political Neutrality

- 5.1 You serve the council as a whole. It follows you must serve all the councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.
- 5.2 As part of your work you may be required to provide advice to councillors or other employees. You must do so impartially and must not allow your own personal and political opinions to interfere with your work.
- 5.3 Certain posts are designated politically restricted by specific regulations. If you hold one of these posts, you will be required by law to observe certain restrictions regarding your out of work activities. For example, you may not:
  - Stand for election to local authorities (except Town or Parish councils), the House of Commons or the European Parliament
  - Hold office in a political party
  - Canvass at elections, or
  - Speak or write publically on matters on party political lines

## 6. Relationships

#### 6.1 **Personal Relationships**

You must declare to your manager in writing, using the Close Personal Relationships Form, any close personal relationship with someone at work to ensure that your impartiality, objectivity and honesty is not compromised.

#### 6.2 Councillors

Mutual respect between employees and councillors is essential to good local government and working relationships should be kept on a professional basis. Close personal familiarity between yourself and the individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

#### 6.3 The Local Community and Service Users

You should always remember your responsibilities to the community you serve and ensure courteous, efficient and impartial service delivery

Constitution Part 5 (N) - Officer Code of Conduct Version 1.0 December 2018 (date printed: 10 February 2021) to all groups and individuals within that community as defined by the policies of the councils.

#### 6.4 **Contractors**

All relationships of a business or private nature with external contractors, or potential contractors, must be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process.

If you engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors you should declare that relationship to the appropriate manager.

## 7. Appointment and Other Employment Matters

- 7.1 If you are involved in the appointment of employees or workers, you should be aware that it is unlawful for you to make an appointment based on anything other than the ability of the candidate to undertake the duties of the post. To avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant or have a close personal relationship with the applicant.
- 7.2 You should not be involved in decisions relating to discipline, promotion or pay and conditions adjustments for another employee or worker who is a relative or with whom you have a close personal relationship.
- 7.3 The canvassing of any member of the councils', directly or indirectly, for any appointment under the councils' will automatically disqualify the candidate concerned for that appointment.

## 8. Conduct Outside of Work and Criminal Offences

8.1 You are expected to conduct yourself at all times (inside and outside of work) in a manner which will maintain public confidence in both your integrity and the services provided by the council. In general what you do outside of work is your personal concern, unless those actions would cause a breakdown in your relationship with the council.

- 8.2 This also extends to the use of social networking. Owing to the open nature of social media, control over this content is generally considered to have been lost once it hits the public domain regardless of the privacy settings of an account. Making derogatory personal comments or offensive remarks about the council and/or other employees or workers could fall within the council's Dignity at Work policy, for which disciplinary action could result.
- 8.3 You must inform your manager if you are arrested/convicted/cautioned of a crime and if arrested must notify the manager of the development and outcome of the case as soon as it happens.
- 8.4 Disclosing all convictions does not necessarily mean disciplinary action will be taken against you. The extent to which a criminal offence may affect employment depends on whether the conduct:
  - makes the employee unsuitable for their work; and/or
  - may reflect adversely on the council's reputation or ability to perform its function
- 8.5 Employees sentenced to immediate imprisonment may be dismissed without notice or compensation in lieu of notice.
- 8.6 Where it is deemed that there is an adverse impact on your employment, the council's Disciplinary Procedure will apply.

## 9. Additional Employment and Private Professional Work

- 9.1 You should not undertake additional employment (paid or unpaid), if your proposed additional work either will or has the potential to:
  - breach employment legislation
  - conflict with or detrimentally affect the council's interests
  - weaken public confidence in the council
  - affect your ability to undertake your council work

If in any doubt you should seek advice from your line manager.

9.2 You should not carry out private professional work within the Eastbourne Borough or Lewes District which involves making an application as a statutory authority for any form of permission or approval; or handle any matter in a private capacity in which you could find yourself in a professional relationship with the council, including your own colleagues.

## **10.** Personal Interests

- 10.1 Personal interest must not conflict with your public duty. An official position or information acquired in the course of your work for the council must not be used to further personal interests or the interests of others.
- 10.2 You must declare in writing, using the Register of Interests Declaration Form, any:
  - Financial or non-financial interest which could conflict with the council's interests
  - Interest in an existing or proposed contract with the council
  - Membership of any organisation or club which could result in a conflict with the council's interests, or of any organisation or club which is not open to the public and which has secrecy about its rules
- 10.3 You may have dealings with the council on a personal level, for instance as a council Tax payer, as a tenant, or as an applicant for a grant or a planning permission. You should never seek or accept preferential treatment in these dealings because of your position as an employee or worker of the council. You should also avoid placing yourself in a position that could lead the public to think that preferential treatment is being given: for instance, by being in substantial arrears to the council, or by discussing a planning application personally with officers when other members of the public would not have the opportunity to do so. Likewise, you should never use your position as an employee or worker of the council to seek preferential treatment for friends or relatives, or any firm or body with which you are personally connected.
- 10.4 The council views failure to pay any money due to itself as likely to bring the council's own reputation into disrepute. It is for the council to demonstrate an individual's liability for any payment, and to institute recovery procedures. But any persistent failure to pay a legitimate demand presented in this connection will be dealt with within the framework of our agreed Disciplinary Procedure.
- 10.5 No officer or servant of the council shall become security for or engage in any loan transaction with any other officer or servant of the council.

#### **11. Equality Issues**

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- 11.1 You are expected to work to eliminate discrimination, promote equality and good relations.
- 11.2 You should ensure that policies relating to equality issues in addition to the requirements of the law are complied with.
- 11.3 All members of the local community, customers and other colleagues have a right to be treated with fairness and equity.

## 12. Separation of Roles during Tendering

- 12.1 If you are involved in the tendering process and dealing with contractors you should be clear on the separation of client and contractor roles within the councils.
- 12.2 Senior employees and workers who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 12.3 If you are a contractor or client service area you must exercise fairness and impartiality when dealing with all customers', suppliers, other contractors and subcontractors.
- 12.4 If you are privy to confidential information on tenders or costs for either internal or external contractors you should not disclose that information to any unauthorised party or organisation.
- 12.5 If you are contemplating a management buyout you should, as soon as you have formed a definite intent, inform the appropriate manager to withdraw from the contract awarding process.
- 12.6 You should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

## 13. Safeguarding of Children and Vulnerable Adults

13.1 The Children's Act 2004 includes a specific duty on councils to have regard to the need to safeguard and promote the welfare of children and to co-operate with other agencies to improve the wellbeing of children and young people, therefore all employees and workers are

expected to work to promote safeguarding within the councils and with members of the public.

- 13.2 You should ensure that all policies relating to Safeguarding of Children and Vulnerable Adults as agreed by the councils are complied with in addition to the requirements of the law.
- 13.3 You have a responsibility to report any safeguarding concerns over the welfare of children, young people or vulnerable adults. This extends to the identification of signs of abuse; poor practice by employees and workers, councillors and others acting for or on behalf of the councils, and allegations brought to our attention by a member of the public in line with the Safeguarding Policy.

## 14. Use of Finance and Other Resources

- 14.1 You must ensure that public funds entrusted to you are used in a responsible and lawful manner. You should strive to ensure value for money to the local community and to avoid legal challenge to the councils.
- 14.2 You must not utilise property, vehicles, equipment, materials or other facilities of the councils for personal use unless authorised in advance to do so. You must comply with the councils' Financial Procedures.
- 14.3 Intellectual property is property which enjoys legal protection and is a result of intellectual effort, including patents, copyright, trademarks, design and software. Where developed in the course of your duties, such intellectual property is the property of the councils. You should not make use of the council's intellectual property to conduct private work.

## **15.** Corruption

15.1 You must be aware that it is a serious criminal offence for you to solicit or receive or give any gift, loan, fee, reward or advantage for doing, or neglecting to do something or showing favour, or disfavour, to any person in your official capacity. If an allegation is made it is for you to demonstrate that any such rewards have not been corruptly obtained.

## 16. Acceptance of Hospitality and Gifts

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- 16.1 You should exercise discretion in offering or accepting hospitality. It is essential that any suggestion or improper influence should be avoided. If you are in any doubt about the right course of action to take you should always seek the advice of your manager.
- 16.2 You should only accept hospitality if there is a genuine need to impart information or represent 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 as represented. They should be properly authorised and recorded.
- 16.3 You should also ensure that accepting the hospitality does not create a conflict of interest and is not likely to cause embarrassment to the councils.
- 16.4 Your acceptance of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the council gives consent in advance and where the council is satisfied that any purchasing decisions are not compromised.
- 16.5 You must not, either directly or indirectly, accept any gift, reward or benefit from any member of the public or any organisation with whom you are brought into contact by reason of your duties. The only exceptions to this rule are:
  - small gifts under the value of £10 given by way of trade advertisements to a wide range of people, e.g. calendars, diaries, pens, mugs and similar articles for use in the office
  - small gifts under the value of £10 offered during official authorised hospitality e.g. gifts on the conclusion of any courtesy visit of a type normally given by that organisation
  - small gifts or tokens of appreciation under the value of £10 where the donor is a service user or client and where refusal would cause offence
  - 16.6 You should handle the refusal of gifts and hospitality with tact courteously and firmly informing the donor of the procedures and standards operating within the council.
  - 16.7 In the event of you receiving a gift without warning, which does not fall in any of the exceptions mentioned above including inducements such as air miles, trading discounts, vouchers or offers of hospitality must be reported to your Head of Service and a Gifts & Hospitality Declaration Form completed.

16.9 The use of personal loyalty cards whist making purchases on behalf of the council is unacceptable. It may bring into question the impartiality of the use of that supplier.

## 17. Sponsorship – Giving and Receiving

- 17.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 17.2 Where the councils wish to sponsor an event or service neither you not any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the councils through sponsorship, grant aid, financial or other means, gives support in the community, you should ensure that impartial advice is given and that there is no conflict of interest involved.

## 18. Health and Safety

18.1 You have a duty of care as prescribed in the corporate health and safety policy, and you must not act wilfully or intentionally in a manner liable to place the public, your colleagues or yourself at risk.

## **19. Personal Appearance**

- 19.1 The appearance of our employees and workers can affect the way customers views the councils. You should be mindful of your overall appearance and wear appropriate clothing for your role ensuring that you look professional whilst carrying out your duties and responsibilities. If you are unsure what is appropriate for your role guidance can be sought from your manager.
- 19.2 Consideration must be given to health and safety and any personal protective equipment must be worn as required at all times.
- 19.3 If you are provided with a uniform you have responsibility to keep it clean and smart.

19.4 Good standards of personal hygiene are required and you are required to wear identity badges at all times whilst at work whilst carrying out work related duties.

## 20. Related Documents and Policies

Your attention is drawn to the following documents which should be read in conjunction with the Code of Conduct.

- Register of Interests Declaration Form Gifts and Hospitality Declaration Form
- Close Personal Relationships in Employment Guidance
- Anti-Fraud and Corruption Policy
- Data Protection Policy
- Safeguarding Policy
- Social Media Policy
- Equality and Fairness Policy
- Dignity at Work Policy
- IT Acceptable Use Policy
- Drug and Alcohol Policy

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## Item O

## PART 5

## Protocol on Councillor/Officer Relations

#### **1** Principles underlying Councillor/Officer Relations

- **1.1** This protocol seeks to reflect the principles underlying the respective codes of conduct which apply to councillors and officers. The shared object of these codes is to maintain and enhance the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct by all parties.
- **1.2** The purpose of the protocol is to guide councillors and officers of the Council in their relations with one another.

#### 2 The Roles of Councillors and Officers

- **2.1** Officers should respect the code of conduct of the authority's councillors and treat them with courtesy at all times. This principle also applies to councillors in their relationships with officers.
- **2.2** A relevant extract from the "National Code of Local Government Conduct" for members is reproduced below:
  - 2.2.1 Both Councillors and Officers are servants of the public and they are indispensable to another but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. 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.
  - **2.2.2** 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 other Councillors and Officers.
- 2.3 Councillors should take care not to exert any undue pressure or influence on officers when those officers are carrying out their work. Particular care in this respect is needed in connection with the use of officer time, equipment and other resources. No councillor should seek to exert undue influence on the content of any officer report.
- 2.4 Councillors should have regard to the seniority of the officer with whom they are dealing and recognise that, whilst those officers owe an overriding duty to the Council as a whole, such duties are first expressed in their respective line managers and the Chief Executive and not to any individual councillor. Councillors should not give direct

instructions to staff unless they are authorised to do so by the Council's Constitution (i.e. only Cabinet members who have been delegated individual responsibility for certain executive decisions). If so authorised instructions should normally be given to the relevant Chief Officer and not to a more junior officer.

- 2.5 Councillors should not raise matters relating to the conduct or capability of a Council employee or of employees collectively at meetings held in public or before the media. Employees have no means of responding to criticisms like this in public. Councillors should only raise such matters through the procedures contained in this protocol. If Councillors feel they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of a Council employee they should raise the matter in writing with the relevant Chief Officer if they fail to resolve it through direct discussion with the employee. The Chief Officer will then investigate the matter and report back to the councillor in writing.
- **2.6** Where an Officer feels they have not been properly treated with respect and courtesy they should raise the matter with their line manager or the relevant Chief Officer as appropriate if they do not feel able to discuss it directly with the councillor concerned.

#### 3 Relationship between the Leader and Chief Executive

- **3.1** All dealings between the Leader and the Chief Executive should be conducted with mutual respect, trust, honesty and courtesy. Neither should place inappropriate pressure on the other and, in their dealings with each other they should not do anything that brings the Council into disrepute, cause any embarrassment either to themselves or the Council or lead to a breakdown in councillor/officer relations.
- **3.2** The Leader and the Chief Executive undertake to recognise:
  - **3.2.1** The need for a close working relationship.
  - **3.2.2** The requirement for an understanding of each other's roles and responsibilities
  - **3.2.3** The desirability of regular liaison through both formal and informal means.
  - **3.2.4** The importance of effective communication.
  - **3.2.5** A respect for each other's views, advice, guidance and integrity.
  - **3.2.6** The need for openness and mutual understanding.
  - **3.2.7** The desirability of maintaining impartiality and independence of role.

- **3.2.8** The need to avoid bias and prejudice.
- **3.2.9** The need to demonstrate effect leadership and their responsibility to set an example for others.
- **3.2.10** That any tensions that arise in their relationship need to be resolved swiftly and amicably.
- **3.3** In addition, they acknowledge:
  - **3.3.1** The Leader's position as Leader of the majority political party group.
  - **3.3.2** The Chief Executive's wider role to serve the Council and councillors as a whole, irrespective of political party.

#### The Leader's Role

- **3.4** The Leader's primary functions are to:
  - **3.4.1** Provide the political leadership of the Council.
  - **3.4.2** Act as the Leader of the majority political party group.
  - **3.4.3** Act as chair of the meetings of the Cabinet.
- **3.5** Through the effective chairmanship of the Cabinet the Leader is accountable for:
  - **3.5.1** Proposing the Council's policy framework and setting priorities and objectives.
  - **3.5.2** Overseeing the implementation of policies and strategies to achieve priorities and objectives.
  - **3.5.3** Proposing the Council's budget to achieve its objectives.
  - **3.5.4** Managing the process for allocating resources to policy priorities.
  - **3.5.5** Ensuring the Council fulfils its statutory duties.
  - **3.5.6** Creating strategic frameworks for effective partnership working.
  - **3.5.7** Making policy decisions in an open and accountable way.
  - **3.5.8** Ensuring continuous improvement in service standards and monitoring performance.

- **3.5.9** Communicating and advocating the Council's priorities, objectives and decisions.
- **3.6** The Leader, in conjunction with other leading councillors, is responsible for the annual assessment of the Chief Executive's performance.

#### The Chief Executive's Role

- **3.7** The Chief Executive has overall corporate management and strategic responsibility for the Council and its delivery of services. He/she is responsible for the provision of professional and impartial advice to all aspects of the decision-making process and is accountable to the Council for the implementation of strategies, policies and decisions.
- **3.8** As the Head of Paid Service of the Council, the Chief Executive has certain defined responsibilities under the Local Government and Housing Act 1989 to report on:
  - **3.8.1** The coordination of the discharge of the Council's functions.
  - **3.8.2** The level, organisation, grades and management of employees required to discharge those functions.
- **3.9** The Chief Executive carries the separate appointment of Returning Officer for the purpose of certain Elections and the appointment of Acting Returning Officer for General Elections.
- **3.10** The Chief Executive is accountable to the Council as a whole. The Chief Executive is required to work effectively with all elected members and to be able to demonstrate political sensitivity and an ability to interpret political will.

#### 4 Relationships between Officers and Chairs

**4.1** It is important that there should be good working relationships between certain Officers and Councillors eg. the Leader, Chairs and Senior Officers. Such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other councillors. If it is impractical for a councillor and an officer between whom there is a difference of opinion, however minor, to resolve the matter speedily and fairly between themselves, that matter should be referred to the relevant Chief Officer. In the event that the matter cannot be resolved by the Chief Officer, it will be referred to the Chief Executive to reach a view and mediate, invoking if necessary the Leader of the Council and/or the Leaders of the Minority Groups.

## 5 Officer Relationships with Party Groups

**5.1** The only basis on which the Council can lawfully provide support services (eg. stationery, typing, printing, photocopying, transport) to councillors is to assist them in discharging their role as members of the Council. Such support services must, therefore, only be used on council business. They should never be used in connection with party political or campaigning activity or for private purposes.

#### 6 Councillors in their Ward Role and Officers

- 6.1 Whenever a public meeting is organised by the Council to consider a local issue, all the councillors representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes consultation exercise on a local issue, the Ward Councillor should be notified at the outset of the exercise.
- **6.2** Officers have a duty to keep councillors informed about issues which may be of particular interest to Ward Councillors and should not rely simply on reporting items to Committees. Officers should particularly bear in mind the importance of ensuring Ward Councillors and Chairs are given early notice of something which is likely to be reported in the media imminently and in which they will probably have an interest. Officers should try to avoid the situation where the first that councillors know of a problem is when they are approached by the media for comment.

## 7 Councillor Access to Documents and Information

- 7.1 Councillors are free to approach any department for such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as members of the council. This can range from a request for general information about some aspect of a department's activities to a request for specific information on behalf of the constituent. Such approaches should normally be directed to the manager of that particular service concerned.
- **7.2** The legal rights of councillors to inspect council documents are covered partly by statute and partly by common law. The statutory framework includes the Local Government Act, 1972 and the Data Protection Acts, 1985 and 1998.
- **7.3** Councillors have a statutory right to inspect any council document which contains material relating to any business which is to be transacted at the Council, the Cabinet, a Committee or Sub-Committee meeting. This right does not apply to documents which appear on the exempt agenda for meetings. The items are those which contain exempt information relating to employees, occupiers of council property, applicants for grants and other services, contract

and industrial relations negotiations, advice from Counsel and criminal investigation.

- **7.4** The common law right of councillors is much broader and is based on the principle that any councillor has a right to inspect council documents so far as his/her access to the documents is reasonably necessary to enable the councillor properly to perform his/her duties as a member of the council. This principle is commonly referred to as the "need to know" principle.
- **7.5** The exercise of this common law right depends, therefore, upon the councillor's ability to demonstrate that he/she has the necessary "need to know". A councillor has no right to a "roving commission" to go and examine documents. Mere curiosity is not sufficient. In the event of any dispute between a councillor and a manager on this issue then the matter will be referred to the Monitoring Officer for advice and if the matter is not then resolved it will be referred to the Audit and Governance Committee, together with a report from the Monitoring Officer.

#### 8 Other Individuals who are Members of Council Bodies

**8.1** The protocol applies equally to co-opted members of council bodies in their relationship with officers where appropriate.

#### 9 Press Releases

**9.1** The Council's press releases are co-ordinated by the Customer Communications and Engagement Lead. If councillors are proposing a press release on behalf of the Council, rather than in their own name, they should consult the Customer Communications and Engagement Lead.

## 10 Correspondence

**10.1** Correspondence, including e-mails between an officer and a councillor is not confidential and shall be open for inspection by other councillors on the "need to know" basis referred to in 7 above.

## 11 Roles of Councillors and Officers in Progressing Commercial Opportunities on behalf of the Council

**11.1** Through Cabinet and full Council Councillors are responsible for the formulation and approval of the Council's Budget and Policy Corporate Plan. Once this strategic framework is in place, it is the responsibility of Officers to deliver these agreed plans and policies. In this context, "delivery" by Officers includes assessing commercial opportunities consistent with the Policy Framework, negotiating with external parties, as appropriate, and, for those opportunities considered worthy of the further progression, submitting detailed

proposals at the appropriate time to the relevant Council decision – making forum for consideration and approval. This in no way prevents Councillors from engaging with residents and businesses in their capacity as community representatives. It is part of a Councillor's role to listen to members of the public and to identify ideas and opportunities. It is a Councillors responsibility to then bring those ideas and potential opportunities back in house promptly so that Officers can channel them into the Council's governance systems to ensure that decisions about them are properly made with the benefit of professional Officer advice.

- **11.2** As a public body, the Council's commercial dealings with other parties are subject to particular legal and financial requirements. Councillors should therefore avoid discussions or meetings with third parties over commercial matters, unless Council Officers properly versed in these Governance arrangements are present. This should protect the Council's best interests by ensuring that any opportunities, negotiations and proposals are handled fairly, lawfully and with the necessary financial prudence.
- **11.3** These provisions should be read in conjunction with:
  - (i) The Councillor Protocol for Procurement, appended to the Council's Contract Procedure Rules and
  - (ii) The Code of Conduct of Members of the Council

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## PART 5

## **Protocol on Key decisions**

References: Chapter 7, DTLR Guidance Regulations made under section 22, Local Government Act 2000

A key decision means an executive decision which is likely

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the services or function to which the decision relates (for these purposes, "significant" means 25% or more of the budget for the services or functions concerned); or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority; or
- (c) to relate to a service which the Council provides or supports that has a particularly significant impact on any community experiencing social exclusion or discrimination, whether that community is defined by geography or interest and even if that community is only located in one ward in the district.

A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

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## PART 6

## **Petitions Scheme**

#### 1 Introduction

- **1.1** Anyone living, working or studying in Lewes District who wishes to raise an issue or have their views heard on a council matter can create and submit a petition. Petitions are an easy way for you to let us know your concerns. You can create and submit a petition electronically, on paper, or both.
- **1.2** The Council's e-petition service is available to use for free. As it is online, it allows you to potentially reach a much wider audience and gives you the chance to gather more names. Once set up, it is easy to send the link to other people for them to sign. Paper petitions are a good way to gain support when knocking door-to-door or at large gatherings with lots of people present.
- **1.3** 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. Paper petitions can be sent to:

Head of Democratic Services Lewes District Council Southover House Southover Road Lewes, East Sussex BN7 1AB

Petitions can also be created, signed and submitted on the Council's website.

#### 2 What do you need to do?

#### 2.1 Petition Do's

Every petition, whether paper or online, needs to include:

- (a) a short headline title to say what the petition is about.
- (b) a clear and concise statement about the subject of the petition this should describe what action the petitioner wishes the Council to take.
- (c) your own name and location (address or postcode).
- (d) online petitions must include the starting and closing date of the petition. You can change the closing date later if you need to.

#### 2.2 Petition Don'ts

Q1

A petition must be submitted in good faith. You must not include:

- (a) potentially libellous, false or defamatory statements.
- (b) matters where the law has said that we must do certain things.
- (c) information protected by a court order (such as the identities of children in custody disputes).
- (d) matters which are subject to appeal processes or legal actions (such as planning appeals, enforcement action or other legal actions in court etc).
- (e) material which is commercially sensitive, confidential or which may cause personal distress or loss.
- (f) the names of individual officials of public bodies.
- (g) the names of individuals, or information where they may be easily identified, in relation to criminal accusations.

The contact details of the petition organiser will not be placed on the website.

#### 3 Number of signatures needed

- **3.1** All petitions must have at least 10 signatures to be considered by the Council. Duplicate signatures will not be counted but will not invalidate the petition.
- **3.2** If your petition contains at least 750 signatures (or 33% of the population of a town or a parish, if on a localised issue),whichever is the lower figure the relevant senior officer will give evidence at a public meeting of the Council's Policy and Performance Advisory Committee.
- **3.3** If a petition contains at least 1,500 signatures (or 33% of the population of a town or parish if on a localised issue), whichever is the lower figure, it will be debated by all our councillors as an agenda item at a Full Council meeting.
- **3.4** If there is any doubt as to whether the subject of the petition is a localised issue, as opposed to a District-wide issue, this will be determined by the relevant Service Director in consultation with the Chief Executive.
- **3.5** If either of these occurs, we will inform you of the date of the meeting and you will have the opportunity to attend.

#### 4 **Presenting your petition**

**4.1** Petitions can be presented to a meeting of the Full Council. If you would like to present your petition to the Council or would like your ward councillor or someone else to present it on your behalf, please contact the Head of Democratic Services.

Q2

**4.2** These meetings take place on those dates and times which can be found on the <u>Council's website</u>.

## 5 How will the Council respond to petitions?

- **5.1** An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let you know what we plan to do with the petition and when you can expect to hear from us again. If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed.
- **5.2** Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:
  - (a) Taking the action requested in the petition
  - (b) Considering the petition at a Council meeting
  - (c) Holding an inquiry into the matter
  - (d) Undertaking research into the matter
  - (e) Holding a public meeting
  - (f) Holding a consultation
  - (g) Holding a meeting with petitioners
  - (h) Referring the petition for consideration by the Council's Policy and Performance Advisory Committee
  - (i) Calling a referendum
  - (j) Writing to the petition organiser setting out our views about the request in the petition.

#### 6 Full Council

- **6.1** The Chair of the Council may at the appropriate time in the order of business agree to receive from an elected member or member of the public, a petition on any matter relating to the work of the Council, but the person submitting the petition may only refer briefly (in an address not exceeding five minutes) to the subject matter of the petition and the number of signatures. The ward councillor(s) and a maximum of two other councillors may also address Council on the subject matter of the petition (each address shall not exceed five minutes). The petition will be referred to the Cabinet or any other committee for consideration and the presenter of the petition shall be permitted to address the Cabinet or other committee when the petition is discussed.
- 6.2 However, if a petition contains at least 1,500 signatures (or 33% of the population of a town or a parish if on a localised issue), whichever is the lower figure, it will be debated by all councillors as an agenda item at a Full Council meeting. If the petition is relevant to a matter which appears on the agenda of that meeting of the Council, members may refer to the petition when that item is considered by the Council. The petition organiser will be invited to present the petition at the meeting where they may only refer

briefly (in an address not exceeding five minutes) to the subject matter of the petition and the number of signatures. The petition will then be discussed by Councillors for a maximum of 15 minutes.

- **6.3** If the petition needs more investigation, you will be advised of the steps the Council plans to take. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible, and consideration will then take place at the following meeting.
- **6.4** The Council will decide how to respond to the petition at this meeting. The Council 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's Cabinet is 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.

# 7 Policy and Performance Advisory Committee

- 7.1 If your petition contains at least 750 signatures (or 33% of the population of a town or parish if on a localised issue), whichever is the lower figure, the relevant senior officer will give evidence at a public meeting of the Council's Policy and Performance Advisory Committee. The Policy and Performance Advisory Committee of councillors which is responsible for scrutinising the work of the Council in other words, the Policy and Performance Advisory Committee has the power to hold the Council's decision makers to account.
- **7.2** If your petition has been considered at the Policy and Performance Advisory Committee, you should be aware that the Policy and Performance Advisory Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition. The Committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the Chair of the Committee by contacting the relevant Committee Officer up to three working days before the meeting.

# 8 Planning Applications Committee

- **8.1** Petitions may be presented at the Planning Applications Committee subject to the following conditions:
  - (a) The petition must be signed by at least 50 signatories (this may include more than one signatory from any one address), subject to the Head of Democratic Services being authorised, in consultation with the Chair to accept petitions with less than 50 signatories in

circumstances where the issue is substantial in its effect on a small community which could not be expected to provide 50 signatories;

- (b) All signatories to the petition must state their addresses on the petition;
- (c) Petitions must be in original form, and any sheets accompanying the petition containing signatures must also contain the full wording of the petition;
- (d) Petitions must be delivered to the Head of Democratic Services three clear working days before the meeting;
- (e) Petitioners may either read or summarise the petition, and state the number of petitioners together with any additional information about the petitioners such as their interests in the proposal which is the subject of the petition;
- (f) Prior to the petition being read, the Chair may give notice that the petition may not be read but summarised;
- (g) Petitioners may not make any statements to the Committee not included in the petition;
- (h) There will be no requirement for the Chair of the Committee to give any response to the petitioners other than that the petition will be taken into account in determining the appropriate matter, and
- (i) The Chair shall retain absolute discretion to terminate the reading of a petition or a summary of a petition if he/she considers that it is appropriate to do so in the interests of the Committee.

#### 9 Officer evidence

- **9.1** Your petition may ask for a senior Council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your 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.
- **9.2** If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, different procedures apply. In these cases the petition route cannot be used.
- **9.3** If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making

representations on behalf of the community to the relevant body. We work with a large number of local partners and where possible will work with these 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.

- **9.4** If your petition is about something that a different council is responsible, the Council will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council but could involve other steps. In any event, you will be notified of what action the Council has taken.
- **9.5** The Council will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition. In the period immediately before an election or referendum the Council may need to deal with your petition differently if this is the case the Council will explain the reasons and discuss the revised timescale which 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.

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

- **10.1** If you feel that your petition has not been dealt with properly, the petition organiser has the right to request that the Council's Policy and Performance Advisory Committee review the steps that the Council has taken in response to your petition. The petition organiser should give a short explanation of the reasons why the Council's response is not considered to be adequate.
- **10.2** The Committee will endeavour to consider your 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 your 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's Cabinet and arranging for the matter to be considered at a meeting of the Full Council.
- **10.3** Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on the Council's website.

# Item R Updated 1 April 2024

# PART 7

# LEWES DISTRICT COUNCIL

# Members' Allowances Scheme

# A Guide to the Scheme

#### Introduction

This guide sets out the allowances you can claim and how the payments you receive may affect your finances<sup>1</sup>.

The Head of Democratic Services is responsible for verifying claims and will provide advice to councillors concerning the allowances payable.

The Chief Finance Officer is responsible for payment of allowances, taxation of allowances, National Insurance contributions and Housing and Council Tax benefit administration.

Your allowances may alter your Income Tax and Social Security position. Because the rules are complex and subject to change, this guidance can only be of a general nature.

This scheme includes the following sections:

- 1 Allowances payable
- 2 How to claim
- 3 How allowances are paid
- 4 Election not to receive payment
- 5 Income Tax matters
- 6 National Insurance
- 7 Social Security benefits
- 8 Contact Points

# 1 Allowances Payable

#### **Basic Allowance**

**1.1** A basic allowance of £5,002 is payable to each member of the Council who is a councillor and is the same for each councillor. Any councillor elected for part of a year is paid on a pro rata basis.

#### **Special Responsibility Allowances**

**1.2** These are intended to recognise the greater responsibilities required. Attendances at "callover" meetings are included in this category. The allowances payable are as follows:

<sup>&</sup>lt;sup>1</sup> The Local Authorities (Members' Allowances) (England) Regulations 2003

Position	Allowance Per Annum
	£
Chair of the Council	3,751
Leader of the Council	18,756
Deputy Leader of the Council	10,316
Other Cabinet Members (portfolio holders)	8,440
Other Cabinet Members (without portfolio)	Withdrawn - No SRA to be payable
Leader of the Minority Group (with no Cabinet portfolio)	6,565
Chair of Policy and Performance Advisory Committee (PPAC)	5,627
Chair of Planning Applications Committee	7,502
Vice-Chair of Planning Applications Committee	1,500
Other Members of Planning Applications Committee	£750
Chair of Audit and Governance Committee	5,627
Chair of Licensing Committee	2,813
Chair of Joint Staff Advisory Committee (when chaired by a Lewes District Councillor)	1,395
Chair of Licensing Sub-Committees	65 per meeting
Chair of Policy and Performance Advisory (Scrutiny) Panels	65 per meeting
Members of Licensing Sub-Committees and/or Policy and Performance Advisory (Scrutiny) Panels	0 – 12 meetings – zero 13 – 26 meetings – 576 per annum 27 – 40 meetings – 862 per annum 41 + meetings – 1,150 per annum
Co-opted Members of Audit and Governance Committee/Sub- Committee/ Standards Panel	34 per meeting

No one Councillor shall receive more than one Special Responsibility Allowance.

The Council appoints two Independent Persons (shared with Eastbourne Borough Council) whose views must be sought before any decision is taken on allegations of a failure to comply with the Code of Conduct by an elected or co-opted member of the Council, or a member or co-opted member of a Town/Parish Council within Lewes District, which the Council has decided shall be investigated.

The Independent Person is not appointed as a member of the Council. The Council is obliged by law<sup>2</sup> to consult an Independent Person on such allegations and their time is compensated with an annual fee and hourly rate set by the Council.

<sup>&</sup>lt;sup>2</sup> Localism Act 2011

#### Travel and Subsistence Allowances

- **1.3** These are payable in respect of the following duties:
  - a meeting of the Council, Cabinet, a committee of the Cabinet or any committee or sub-committee of the Council;
  - a meeting of a body (or a committee or sub-committee of such a body) to which the Council make appointments or nominations;
  - a meeting which has both been authorised by the Council, a committee or sub-committee of the Council or a joint committee of the Council and one or more other Councils, or a sub-committee of a joint committee and to which representatives of more than one political group have been invited;
  - a meeting of a local authority association of which the Council is a member;
  - duties undertaken on behalf of the Council in pursuance of any standing order requiring a member or members to be present while tender documents are opened;
  - duties undertaken on behalf of the Council 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;
  - a study course, conference or seminar on the Council's behalf, provided that (a) the meeting has been authorised by the Cabinet, committee or subcommittee, or (b) it has been authorised by the Head of Democratic Services under delegated power, in consultation with the Leader of the Council, if it relates to the Local Government Association, South East England Development Agency, South East England Regional Assembly or any other public service organisation;
  - any other meeting (including Members' seminars, training organised by, or on behalf of, the Council and tours of inspection) where places are made available for members or where training is offered to members with particular needs and responsibilities according to their roles ie. Cabinet Members;
  - a visit within the District to inspect planning application sites when authorised by the Planning Applications Committee;

- attendance at meetings when appointed as the representative of district councils in East Sussex (for instance, meetings of the East Sussex Pension Fund Investment panel);
- meetings with officer(s) convened by the officer(s), to discuss a matter relating to a District Council service or in which the Council has an interest. (Matters should, where possible, be resolved using the telephone or e-mail. If there is the need for a special meeting, this should be pre-arranged at the Council Offices and, whenever possible, coincide with other meetings at the Council Offices);
- visits to sites, establishments or exhibitions where the Cabinet or a committee or sub-committee resolves in advance that a visit is necessary to enable a decision to be made on a current issue;
- interviews or fact finding being undertaken as a member of the Scrutiny Committee or its Panels as part of an agreed programme;
- the Chair and Vice-Chair of the Council, a committee, sub-committee or members of the Cabinet or a substitute nominated by them may claim travel for consultations with persons or organisations outside the District Council and any other duty for or on behalf of the Council.

#### **Travel Rates**

**1.4** The travel rates for in-authority travel to approved duties (those duties set out in paragraph 1.3 above) are based on the approved HMRC (also known as AMAP) rates and are indexed to these rates which were set in 2002. The current rates that apply are:

#### Cars and Vans:

Mileage:	Rate:
The first 10,000 miles:	45p per mile
For each additional mile over 10,000 miles:	25p per mile
Supplementary for carrying passengers per mile:	5p per mile for each passenger carried to the same approved duty

Motor Cycles:	24p per mile
Bicycles:	20p per mile

#### Car parking:

Members can be reimbursed for car parking charges by completing this area of the travel claim form. Claims for such charges can only be paid when supported by a valid receipt.

#### For Members using Public Transport

**1.5** Where Members use public transport to travel to approved duties it should be claimed at standard rates, or cheap day rates when applicable and with receipts. However, if there are exceptional circumstances when it is difficult to utilise public transport at standard rates or otherwise, then a Member must obtain the prior agreement from the Council to use other forms of transport, such as taxis.

#### Subsistence – In District Council Area

**1.6** Subsistence may be claimed in exceptional circumstances at the rates applied to employees. Receipts should accompany claims.

#### Travel and Subsistence – Out of Council Area

**1.7** In the circumstances when members travel out of the Council area, either to visit another council, or to attend conferences or seminars, the subsistence will be met by the Council, or reimbursed at the level of the approved costs incurred. This is on the basis that members seek the most cost effective method of travel, or that the council provides a travel warrant. Approved mileage will be reimbursed at the rates set out above, and receipts should support other approved costs.

#### **Dependents' Carers' Allowance**

- **1.8** This is payable in respect of the duties listed in paragraph 1.3 above. The Dependants Carers' Allowance is based on two criteria, general childcare and specialist care. Rate one for childcare will be paid at the market rate, reimbursed upon production of receipts, with no monthly maximum claim. Rate two will be paid for specialist care based at cost upon production of receipts and requiring medical evidence that this type of care is required. There should also be no monthly maximum claim.
- **1.9** The maximum period of entitlement will be the duration of the approved duty and reasonable travelling time. The allowance will not be payable to a member of the claimant's own household. The allowance payments are to be authorised by the Head of Democratic Services on production of receipts.

#### **IT Allowance for Councillors**

**1.10** The IT allowance for Councillors was withdrawn with effect from 1 April 2024, on the basis that all costs can be met from the increased basic allowance.

#### Indexation

**1.11** That the basic allowance, each of the Special Responsibility Allowances and the IT allowance, be increased on 1 April 2024 and annually in line with the percentage increase in staff salaries up until 1 April 2027.

# 2 How to Claim

- **2.1** There is no need to claim the basic flat rate allowance or any special responsibility allowances as these are paid automatically.
- 2.2 Claims should be submitted monthly for dependent carers', travel and subsistence allowances, other than in exceptional circumstances (e.g. absence on holiday). This is because checking claims requires a considerable amount of officer time, and older claims can be more difficult to verify. It is especially important to note that any claims over six months old will not be paid, unless the express approval of the Chief Finance Officer is obtained.
- **2.3** Claim forms are available from Democratic Services and completed forms must be returned to that department by the 8th of each month, at the latest, to ensure they are included in your monthly allowance payment.
- 2.4 Councillors must ensure that all claim forms are completed correctly and in full. It is your responsibility to fill in the details of the meetings and the amounts you are claiming for dependent carers', travel and subsistence. You must also be sure that the meetings in question are eligible for such allowances (see Section 1). When you sign the claim form you are stating that all the information is present and correct. Any incomplete claims will be returned to you.
- 2.5 Claims are paid by the Payroll Section of the Finance Department. They will need to know your bank details, tax code and National Insurance number before any payments can be made. A form requesting this information is sent to all members soon after they have been elected. Any changes to this information should be notified in writing to the Payroll Section.

#### 3 How allowances are paid

**3.1** One-twelfth of the basic allowance and any special responsibility allowance is paid on or by the 25th of the month together with any subsistence, travel and dependent carers' allowances which have been claimed(the Chair of the Council's allowance is paid monthly.) Payment is made direct to a bank account and a payslip showing a breakdown of pay and deductions is provided.

#### 4 Election not to receive payment

**4.1** A councillor may, by notice given in writing to the Head of Democratic Services, elect to forgo his or her entitlement or any part of his or her entitlement to allowances.

## 5 Repayment of Allowances

- **5.1** Where payment of any allowance has already been made in respect of any period during which the member concerned is:
  - (a) ceases to be a member of the authority; or
  - (b) is in any other way not entitled to receive the allowance in respect of that period,

the authority may require that such part of the allowance as relates to any such period be repaid to the authority.

#### 6. Parental Leave

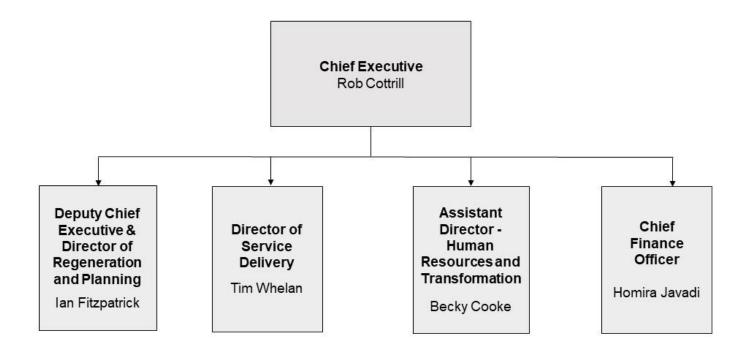
- 6.1 A parental leave policy has been adopted with effect from November 2020. This provides that:
  - All Councillors shall continue to receive their Basic Allowance in full for a period up to six months in the case of absence from their Councillor duties due to leave relate to maternity, paternity, adoption shared parental leave or sickness absence;
  - Councillors entitled to a Special Responsibility Allowance shall continue to receive their allowance in full for a period of six months, in the case of absence from their Councillor duties due to leave related to maternity, paternity, adoption, shared parental leave or sickness absence; and
  - Where for reasons connected with sickness, maternity leave, adoption leave, paternity leave or shared parental leave a Councillor is unable to attend a meeting of the Council for a period of six months, a dispensation by Council can be sought in accordance with Section 85 of the Local Government Act 1972; and
  - If a replacement to cover the period of absence under these provisions is appointed by Council or the Leader (or in the case of a party group position the party group) the replacement shall be entitled to claim a Special Responsibility Allowance pro rata for the period over which the cover is provided.

# 7. Contact Points

Head of Democratic Services - 01273 471600 Department for Work and Pensions (Benefits Agency) - 0843 5159479 This page is intentionally left blank

#### **Lewes District Council**

#### Part 8 – CMT Management Structure



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Lewes District Council Constitution Part 9 – Scheme of Delegations Updated – December 2023



**Lewes District Council** 

Part 9

# Scheme of Delegations to Officers and Proper Officer List

# LEWES DISTRICT COUNCIL

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- Annex A Chief Officers' and Monitoring Officer's Areas of Responsibility

# A General Principles

#### A1. Statutory authority permitting the Council to delegate the discharge of its functions to an officer is provided by:

- The Local Government Act 1972, section 101(a), in respect of **non-executive** functions. The power to decide which of these functions are to be delegated to an officer resides with full Council or, where full Council has authorised a committee to discharge any function, with that Committee.
- The Local Government Act 2000, section 9E(2)(b), in respect of **executive** functions. The power to decide which executive functions are to be delegated to an officer is in the sole gift of the Leader or, where the Leader has authorised the Cabinet or a Cabinet Member to discharge any function, in the gift of the Cabinet or Cabinet Member as applicable.

The Proper Officer appointments are made under the relevant provisions of section D of this scheme.

An officer or other person is authorised to exercise such powers as are shown in the Scheme of Delegations including those reasonably applied or incidental to the matters specified in respect of the functions of the Council. Functions, matters, powers, authorisations, delegations, duties and responsibilities etc. within the scheme shall be construed in a broad and inclusive fashion.

#### A2. For the purposes of this scheme:

If the post of an officer to whom a function is delegated (or to which he/she has been appointed as a Proper Officer) is vacant, or if the post-holder is absent through sickness, on leave (of whatever type), or otherwise unavailable, then unless the Council otherwise decides:

- i) In the case of the Chief Executive, the delegation shall be exercisable by the Deputy Chief Executive, a formallyappointed Acting Chief Executive (to include an Interim Chief Executive) or any one of the Chief Officers (as defined below).
- ii) In the case of a Chief Officer the delegation shall be exercisable by the Chief Executive or another Chief Officer.
- iii) In the case of the Officer who carries the role of a Section 151 Officer, the delegation shall be exercisable by the Deputy Section 151 Officer in relation to matters under Section 151 of the Local Government Act 1972.

- iv) In the case of the Officer who carries the role of Monitoring Officer, the delegation shall be exercisable by the Deputy Monitoring Officer in relation to matters which are the responsibility of the Monitoring Officer.
- v) In the case of a Head of Service, the delegation shall be exercisable by the Chief Executive, Deputy Chief Executive or a Director or a Head of Service sub-delegated to in writing by one of these officers, provided that the officer exercising the delegation has the requisite professional qualification, where such is required (e.g. planning).

#### A3. Where decisions are taken by officers under delegated powers the following conditions and rules shall apply:

- i) Powers shall be exercised in accordance with the Council's Constitution (including budgetary, financial and contractual procedural rules), in accordance with professional advice and, if appropriate, from the relevant lead service officer, in accordance with the Council's approved Policy Framework and other approved plans and policies and also with regard to all relevant legislative provisions.
- ii) Any Officer exercising a delegation, except in cases of emergency, shall only do so:
  - a) in accordance with the relevant policies and procedure of the Council, and
  - b) where provision has been made for any expenditure within the relevant budget.
- iii) In cases of emergency an Officer may, if justified by all of the circumstances, exercise delegations in a manner which is not in accordance with Council policies or procedures and/or where provision has not been made in any budget. A written record of the reasons for deviating from the policies and procedure and/or expenditure without a relevant budget must be made and kept.
- iv) The Officer exercising such power shall give effect to any resolution or decision of the Council, Leader, Cabinet, Cabinet Member or a Committee upon any matter of principle or policy in relation to the functions concerned.
- v) Where an Officer is authorised to take a decision or exercise a function either directly or by virtue of the provisions relating to absence detailed in paragraph A2 above, he/she may authorise any other officer specifically or generally to take such action as is necessary to implement that decision or exercise that function either in the name of the Officer so delegating or in the sub-delegate's own name.
- vi) Officers carrying delegations under this Scheme of Delegations, while retaining the delegation themselves, may also, in writing, further delegate the authority to exercise the delegation to another officer, although final responsibility for the

actions taken under any such sub-delegation will remain with the original delegator. Officers entrusted with such subdelegations may, with the written agreement of the relevant Director, further delegate the authority.

- vii) Any sub-delegation is to be recorded in writing.
- viii) A copy of any sub-delegation or its revocation shall be provided to the Head of Democratic Services within five working days. The Head of Democratic Services shall maintain a central register of sub-delegations and the current list of sub-delegations shall be shown on the intranet and be available to Members and Officers.
- ix) An Officer may be required under this Scheme of Delegations to Officers to exercise a delegation after consultation with the Leader, a Cabinet Member or other nominated Councillors. Any sub-delegation or further sub-delegation of the original delegation will retain any original consultation requirement. The Officer dealing with a matter shall also arrange for any inter-departmental consultation that may be required.
- x) Where an Officer is authorised to take decisions, action to implement such decisions shall be taken in the name of (but not necessarily personally by) that Officer.
- xi) Any Officer to whom a delegation or sub-delegation is given may waive his/her right to exercise the delegation or subdelegation and refer the matter back to the Council, the Leader, the Cabinet, the Individual Cabinet Member or to the relevant Committee or the original delegate for a decision.
- xii) Where an Officer is taking a decision which could attract legal liability to the Council, he/she shall consider whether or not the nature of the decision justifies it being taken in consultation with the Head of Legal Services to the Council (e.g. termination of a contract).
- xiii) Each delegated power includes authority, after consultation with the Council's senior legal officer, for:

(a) the prosecution, defence, institution of or appearance in any legal or other proceedings in any Court, inquiry or tribunal or before any similar body; and

(b) the conduct of any such proceedings. All legal proceedings shall be undertaken under the name of the Council's senior legal officer.

- xiv) Any decision which has financial implications other than those budgeted for shall be taken in consultation with the Council's Director of Finance and Performance.
- xv) Unless specifically stated, no delegation authorises the taking of decisions as to whether or not simple cautions (as a punishment) should be administered to defendants or legal action should be taken by or on behalf of the Council.
- xvi) Subject to any express provision or instruction from the Council, the Leader, the Cabinet or other decision-making body of the Council to the contrary, any power to approve or deal also includes the power to refuse and the power to impose appropriate conditions.
- xvii) Decisions taken under delegated powers may need to be recorded. Rule 13 of the Access to Information Procedure Rules shall apply in respect of any key decision taken by an Officer under delegated authority of the Leader or the Cabinet. An Officer exercising a delegated power shall, where necessary, append a note to the record of his/her decision detailing the steps taken to inform/consult with the Leader/Cabinet Members/Councillors and the responses received. In accordance with regulation 13(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and regulation 7 of the Openness of Local Government Bodies Regulations 2014, where a written statement of executive and non-executive officer decisions must be recorded, it is published as soon as reasonably practicable after a decision has been made.
- xviii) This Scheme of Delegation should be read in conjunction with any of the Council's business plans. These set out the general priorities for the Council's activities and are agreed by the Council on an annual basis. Chief Officers are delegated to carry out the activities described in these plans, with overview by the Council carried out through its performance management and budget monitoring framework.

#### A4. Other matters

- i) Those Officers designated as proper officers, authorised officers, appropriate person or any other statutory description of officer listed in Section D shall exercise the powers and have the responsibilities attributed to them by legislation.
- ii) The Chief Executive, Deputy Chief Executive, Directors and the Director of Finance and Performance may appoint any appropriate officer to be a proper officer, authorised officer, appropriate person or any other statutory description of officer in respect of any legislation and written confirmation of such appointment shall be conclusive evidence of its application in particular cases.

- iii) In the event that a post to which a delegation is given ceases to exist and its responsibilities are transferred to another post temporarily or permanently, then the delegations given under this scheme shall be exercisable by the post to which the responsibilities have been transferred. There should be written confirmation of the change in responsibilities from the Chief Executive, which shall be provided to the Head of Democratic Services to be retained with the central copy of the Scheme of Delegations and sub-delegations.
- iv) An Officer acting up to or seconded to a post on which delegations have been bestowed in accordance with this Scheme of Delegations shall be able to exercise those delegations in the same way as the original postholder.
- v) The Monitoring Officer may at any time make minor technical or presentational amendments to this Scheme to reflect changes in legislation, policy, or Chief Officer titles and remits. Amendments of a substantive nature must, after consideration by the Senior Managers Forum and the Corporate Management Team, be referred to the Constitution Working Group for consideration and to formulate a recommendation to Audit and Governance Committee.
- vi) A row number in Parts B and C with a green 'C' suffix indicates a council function. These rows are B19, B20, B35-37, C2, C38-41, C42(ix), C57-70 and C73. All other rows in those Parts are executive functions.
- vii) Text in this Scheme highlighted in green is a function exclusive to Lewes District Council. These functions are specified in rows C38A, C57 introduction, C57(iii) and C104.

### A5. Interpretation

Term	Definition
Act, Order or other legal provision	Any reference to an Act, Order or other legal provision shall include a reference to any modification or re- enactment thereof and any reference to any Directive, Act, Order or other legal provision shall include any Regulations, Orders, Rules, Instruments, Directions, Statutory Guidance or other legal provision made thereunder.
Chief Officer	The Chief Executive and any of the Directors.
Consultation	Consultation shall mean seeking the comments of the person(s) to be consulted with. Consultation shall not mean obtaining the consent of the person(s) to be consulted with. A written record of the consultation shall be retained by the officer managing the exercise.
The Council	Shall include the Council, the Leader, the Cabinet, an Individual Cabinet Member or a Committee.
Emergency	Circumstances where action is necessary immediately and where inaction may lead to a loss of life, injury to a person or animal or damage to or loss of property.
The Planning Acts	The Town and Country Planning Act 1990, the Town and Country Planning Act 2008, the Planning (Listed Building and Conservation Areas) Act 1990, and the Planning (Hazardous Substances) Act 1990; and, in respect of them all, any amendments as may be made from time to time and any regulations and orders made pursuant to the same.
In writing	When applied to a sub-delegation, further sub-delegation or the cancellation of such a sub-delegation or further sub-delegation from this Scheme of Delegations, "in writing" shall be taken to include email, whether or not by specific reference to the elements of the scheme within such an email, or by a combination of general sub-delegation and attachment to the email of part or parts of this Scheme. As provided at A3(viii) above, the Head of Democratic Services shall be responsible for maintaining an up to date register of such sub-delegations, further sub-delegations or retractions of such delegations and sub-delegations, which shall be available to view on the Council's Intranet.

#### A6. Abbreviations

Post	Abbreviation	
Chief Executive (and Head of Paid Service)	CE	
Director of Regeneration and Planning	DRP	
Director of Service Delivery	DSD	
Director of Finance and Performance	DFP	
Director of Tourism, Culture and Organisational Development	DTCOD	
Head of Legal Services	HLS	
Head of Democratic Services	HDS	
Head of Electoral Services	HES	

Act / Regulation or Order	Abbreviation
Planning (Listed Buildings and Conservation Areas) Act 1990	P(LB&CA)A
Town and Country Planning Act 1990	ТСРА
Town and Country Planning (Control of Advertisement) Regulations 1992	TCP(CA) Regs
Town and Country Planning (General Permitted Development) Order 2015	GPDO

# **B** Delegations to all Chief Officers

Subject to the foregoing, there are delegated to the Chief Officers those matters detailed in column 2 below, subject to any consultation requirements set out in column 3 and any limitations listed in column 4 below. Chief Officers can make any decision that can be made by a Head of Service or other Officer.

#### General:

No.	Delegation	Consultees	Limitations
B1.	To manage the functions for which they are responsible as set out in <u>Annex A</u> .		
B2.	To make consequential amendments to any policy, strategy, consultation or similar document and sign notices, other than legal notices, arising from any decision of the Council.		
B3.	To respond to consultations.	Relevant Cabinet Member	
B4.	To dispose of lost or uncollected property.		
B5.	To procure goods and services in accordance with Contract Procedure Rules.	DFP	
B6.	To exercise powers under Section 1 of the Localism Act 2011 (the general power of competence) in respect of the functions for which they are responsible as set out in <u>Annex A</u> .		
B7.	To exercise powers and determine all matters relating to the supply of goods and services to other local authorities and public bodies in respect of the functions for which they are responsible as set out in <u>Annex A</u> .	DFP	

No.	Delegation	Consultees	Limitations
B8.	To carry out the 'Proper Officer' and 'Authorised Officer' functions as identified in the list set out in Section D below.		
B9.	To carry out minor development for which planning permission is not required.		
B10.	To authorise Officers to carry out inspections, take samples, enter premises, form opinions and take any other necessary action as may be required by law or in accordance with the Council's functions and policies in relation to the functions for which they are responsible.		

# Contracts:

No.	Delegation	Consultees	Limitations
B11.	To do all matters in relation to the letting of contracts.		In accordance with Contract Procedure Rules
B12.	To invite and accept tenders received on any matter.		In accordance with Contract Procedure Rules
B13.	To sign contracts on behalf of the Council.		In accordance with Contract Procedure Rules

# Financial:

No.	Delegation	Consultees	Limitations
B14.	To manage budgets allocated to the functions for		In accordance with Financial Procedure

No.	Delegation	Consultees	Limitations
	which they are responsible as set out in Annex A, including authority to incur expenditure, and enter into contracts, on items included in the approved Revenue Estimates or Capital Programme except where the Council has placed a reservation on any such item.		Rules and Contract Procedure Rules
B15.	To implement the substance and conditions of a grant provided by the government under s.31 of the Local Government Act 2003.		
B16.	To provide business grants under government schemes.		
B17.	To write off amounts as irrecoverable.	DFP/Relevant Cabinet Member	In accordance with Financial Procedure Rules
B18.	To determine grant applications in relation to the functions for which they are responsible as set out in Annex A.		(NB this delegation does not relate to the award of grants to Voluntary sector organisations)
B19. C	To vary, in exceptional circumstances, annual fixed fees and charges, subject to any relevant Council policies.	Relevant Cabinet Member	
B20. C	To determine charges for the use of relevant services and events not covered by the annual review of fees and charges.	Relevant Cabinet Member	
B21.	To take any action authorised by Financial Procedure Rules.		

No.	Delegation	Consultees	Limitations
B22	To submit bids for the Council to receive grants etc from outside bodies in accordance with the functions of the Council.	DFP	

#### Assets:

No.	Delegation	Consultees	Limitations
B23.	Disposal of surplus / redundant moveable assets (i.e. not land or buildings).		Not to include any item that may be considered to be of historical significance, interest or value.

## Data Protection and Freedom of Information:

No.	Delegation	Consultees	Limitations
B24.	Respond to requests under Data Protection and Freedom of Information legislation, the latter comprising the Freedom of Information Act 2000 and Environmental Information Regulations 2004.		

### **Emergency Powers:**

No.	Delegation	Consultees	Limitations
B25.	To take any action necessary with regard to the Council's Emergency Planning functions, as required under the Civil Contingencies Act 2004 and the Council's other emergency plans, including authority to incur expenditure.		

#### Land:

No.	Delegation	Consultees	Limitations
B26.	In accordance with Council policies, to manage land, property and other assets allocated to the functions for which they are responsible.		

### Health and Safety:

No.	Delegation	Consultees	Limitations
B27.	To exercise all powers, functions, duties and responsibilities of the Council with regard to Health & Safety.		

### **Equalities:**

No.	Delegation	Consultees	Limitations
B28.	To exercise all powers, functions, duties and responsibilities of the Council with regard to equalities.		

## Legal:

No.	Delegation	Consultees	Limitations
B29.	To make application for warrants of entry to land or property under the provisions of any legislation, other than warrants for possession of land or property, in relation to functions for which the Chief Officer is responsible.	Where practicable, with the HLS	

No.	Delegation	Consultees	Limitations
B30.	After consultation with the Head of Legal Services,		
	<ul> <li>to prosecute, defend, commence or appear in any legal or other proceedings in any Court, inquiry or tribunal or before any similar body; and</li> </ul>		
	<ul> <li>(ii) to conduct any such proceedings. All legal proceedings shall be undertaken under the name of the Head of Legal Services.</li> </ul>		
B31.	To sign, issue and serve all notices required by statute or otherwise to be given by the Council and all necessary advertisements.		

# Regulatory:

No.	Delegation	Consultees	Limitations
B32.	To issue fixed penalty notices where permitted by statute in relation to the functions for which they are responsible.		
B33.	The grant, review, renewal and cancellation of authorisations under the Regulation of Investigatory Powers Act 2000 (RIPA) and Investigatory Powers Act 2016, in accordance with the Council's surveillance and communications data acquisition policies.		Applies to RIPA authorising officers only.

No.	Delegation	Consultees	Limitations
B34.	The making of ex gratia payments in cases of maladministration.	DFP	

#### Licences, notices etc.

No.	Delegation	Consultees	Limitations
B35. C	The determination of any application for permissions, consents or licences or for registration within the functions for which he/she is responsible.		Except where they are reserved to Council, the Leader, the Cabinet, a Cabinet Member or Committee.
B36. C	The issue and service of any notice or requisition for information concerned with matters within the functions for which he/she are responsible.		
B37. C	The carrying out of works in default following non- compliance with any notice concerned with matters within the functions for which the/she are responsible.		
B38.	The management of any internal appeal, challenge or objection process against or in support of any of the Council's decisions, other than before a court or tribunal.		
B39.	The incurring of expenditure on the reception and entertainment by way of official courtesy of persons representative of or connected with local government or other public services whether inside or outside the United Kingdom.		To maximum of £2000.

### Planning:

No.	Delegation	Consultees	Limitations
B40.	To make application for all consents required in relation to planning permission in respect of Council land or property in relation to the functions for which they are responsible as set out in <u>Annex A</u> .		

# **Regulation etc:**

No.	Delegation	Consultees	Limitations
B41.	To make application for all consents required in relation to Building Regulation Approval in respect of Council land or property in relation to the functions for which they are responsible as set out in <u>Annex A</u> .		

### Staffing:

No.	Delegation	Consultees	Limitations
B42.	To determine and take action in relation to all staff matters relating to permanent and temporary staff below Chief Officer level, allocated to the functions for which they are responsible.		In respect of applications from ill health retirement, and applications from former employees to have their LGPS pensions released on compassionate or exceptional grounds, directors may proceed only in consultation with DTCOD and Council appointed Occupational Health Team.
B43.	To appoint officers as 'Authorised Officers', 'Inspectors', 'Proper Officers' or similar and to undertake enforcement functions excluding the		

No.	Delegation	Consultees	Limitations	
	issuing or defending of legal proceedings in respect of functions for which the officer is responsible.			
B44.	In accordance with section 113(1) of the Local Government Act 1972, to place officers at the disposal of other local authorities.	The individual officer(s) to whom the disposal applies	Where the disposal relates to a high profile matter or one of strategic importance, the Chief Officer should give due consideration to consulting the relevant Cabinet member.	

# C Delegations to Specific Chief Officers, the Head of Legal Services and the Monitoring Officer

Subject to the foregoing, there are delegated to the Officers listed below those matters detailed in column 2 subject to any consultation requirements in column 3 and any limitations in column 4.

No.	Scope of Delegations
C1.	Chief Officers, the Head of Legal Services and the Monitoring Officer shall exercise the following powers or may authorise suitably experienced or qualified officers who shall have, save for any consultation requirements and limitations listed, the range of powers set out below. The powers referred to shall <b>not</b> include the following:
	<ul> <li>Powers where an individual officer is required by law to hold a relevant qualification and he/she does not hold that qualification.</li> </ul>
	b) Powers which fall outside the individual's actual authority as determined by his/her post or are not covered by the authorisation issued by or on behalf of the delegating Officer.
	c) Any situation where an individual Officer is prevented, for whatever proper reason, from exercising such power.
	d) Powers to determine whether or not civil or criminal proceedings should be issued once evidence to support the issue of such proceedings is available save as set out below in respect of cautions and administrative penalties.
	e) Powers to authorise civil or criminal proceedings.

#### Chief Executive:

No	Function	Consultation	Limitation
C2. C	The taking of any action required in connection with the organisation or holding of neighbourhood, parish, district, county, general elections or referenda.		
C3.	To take urgent action on behalf of the Council.		This power may be exercised only where all efforts, so far as reasonably practicable, have been made to inform the Leader or Deputy Leader in advance.
			Where it is not practicable to inform the Leader or Deputy Leader in advance, the Chief Executive should do so at the earliest feasible time thereafter.
			For the purposes of this delegation, "urgent action" means action that needs to be taken immediately or in a very short timescale to meet operational needs and cannot reasonably be deferred to allow the normal decision making process.
C4.	The grant and supervision of exemptions from political restriction.	HLS	
C5.	To maintain a register of politically restricted posts and ancillary matters.	HLS / HDS	
C6.	To convene and cancel meetings of the Council, the Leader, the Cabinet, Cabinet Members, Committees and all other Council bodies.	HLS / HDS	

#### Chief Officers other than the Chief Executive:

Νο	Function	Consultation	Limitation
	In the absence of the Chief Executive, to take urgent action on behalf of the Council.		The relevant Chief Officer(s) will, where reasonably practicable, inform the Leader or Deputy Leader in advance.

### Director of Tourism, Culture and Organisational Development:

Νο	Function	Consultation	Limitation
C8.	To confirm the appointment of staff on the satisfactory completion of probationary period.	Relevant Chief Officer.	
C9.	To implement the Council's pay and grading procedure.	DFP.	
C10.	To implement any nationally agreed pay settlements.	DFP.	
C11.	To exercise the Council's functions relating to the provision and management of cultural facilities and activities, including but not limited to the provision the hospitality and catering.		

## **Director of Service Delivery:**

No	Function	Consultation	Limitation
C12.	To determine any applications for Housing, Council Tax or similar benefits; and, where appropriate, make payments of Housing and Council Tax or similar benefits.		Housing benefit determinations to follow the procedure in row C12A
C12A	To exercise determinations, discretionary powers and all functions contained under the Social Security and Housing Benefit Act 1982 including any regulations and amendments thereto and any subsequent relevant legislation.		
C13.	To take all necessary actions including legal enforcement relating to the demand, collection and the recovery of Council Tax (as specified in row 13A), Business Rates (as specified in row 13B) and any other local levy or collected taxes.		
C13A	To administer the functions of the Council under the Local Government and Finance Act 1992 and regulations made thereunder in connection with the collection and enforcement of the Council Tax including, without limitation, the Council's functions regarding:		
	(i) determinations as to persons to be disregarded for the purposes of discount under Section 11(5) and Schedule 1 to the Act;		

Νο	Function	Consultation	Limitation
	(ii) the administration etc of the Council Tax under regulations made pursuant to Section 14(1) and Schedule 2 to the Act;		
	(iii) the imposition of penalties under Section 14(2) and Schedule 3 to the Act;		
	<ul> <li>(iv) the enforcement of the Council Tax under regulations made pursuant to Section 14(3) and Schedule 4 to the Act;</li> </ul>		
	<ul> <li>(v) the administration of and making determinations under legislation relating to Council Tax benefits and reductions; and</li> </ul>		
	<ul> <li>(vi) the authorisation of officers to levy distress on behalf of the Council pursuant to regulation 45 of the Council Tax (Administration and Enforcement) Regulations 1992.</li> </ul>		
C13B	To administer the Council's functions in relation to the collection of non-domestic rates in accordance with the Local Government Act 1988 and all relevant regulations made thereunder.		
C14.	To determine entitlement to mandatory or discretionary rate relief.	Relevant Cabinet Member	
C15.	To serve on the Valuation Officer notice of objection to		

No	Function	Consultation	Limitation
	any proposals for alteration of the Valuation List.		
C16.	To make proposals for the alteration of the Valuation List or for inclusion of particular properties in the Valuation List.		
C17.	To sign off Valuation Agreements.		
C18.	[Deleted]		
C19.	To determine and take all action in relation to the management and maintenance of the Council's housing accommodation including the letting, transfer, exchange and repossession of dwellings, garages, open spaces and parking spaces. To determine and where appropriate give consent for alterations or extensions to former Council houses and flats.		
C20	<ul> <li>In relation to all and any council owned housing properties:</li> <li>(i) to acquire or dispose of land, and to grant and/or modify leases, easements, licences and way-leaves of, in, or over such properties, in accordance with the limits specified in paragraphs C1 a) to e) above.</li> <li>(ii) To vary the terms and conditions of, or negotiate the surrender of, leases and licences.</li> <li>(iii) To determine as landowner or landlord, applications for licences, consents and permissions in respect of</li> </ul>	Where any value exceeds the limits specified in paragraphs a) to e), the DSD may exercise the powers referred to in C20(i) but only after consulting with the	<ul> <li>a) Where the payment from the other party does not exceed £50,000 (£25,000 for amenity land); or</li> <li>b) where the payment to the other party does not exceed £50,000; or</li> <li>c) where the annual rent does not exceed £25,000 (except for a rent review); or</li> <li>d) where the lease term of the property does not exceed 10 years; or</li> <li>e) if an easement or way-leave, the annual fee does not exceed £1,000.</li> </ul>

No	Function	Consultation	Limitation
	properties.	relevant cabinet portfolio holder.	
C21	To make the necessary application for permission to dispose of 5 or more HRA assets direct to the Secretary of State.		
C22.	To investigate allegations of council tax benefit fraud.		
C23.	To determine whether or not a simple caution or administrative penalty should be administered following an investigation into an alleged criminal offence	HLS	There must be a full admission. It must be a first offence. It must be in the public interest. It must be a minor matter. It must not be a complex fraud or attempted fraud.
C24.	To administer simple cautions and administrative penalties, following determination in accordance with paragraph C23 above.		
C25.	To implement the Council's policies regarding Community Safety and the reduction of crime and disorder.		
C26.	To take appropriate enforcement action in relation to -		
	(i) any Council byelaw; and		
	(ii) any anti-social behaviour regulated by the Council under powers conferred by the Anti-social Behaviour, Crime and Policing Act 2014, such enforcement to include the issuing of fixed penalty notices.		

No	Function	Consultation	Limitation
C27.	To exercise the Council's functions relating to homeless persons.		
	This includes the power to carry out and/or arrange for the carrying out of homelessness reviews in accordance with Part VII of the Housing Act 1996. The Director of Service Delivery may carry out such reviews personally or may instruct another council officer to carry out such a review or may instruct a third party individual or body to carry out such a review on his/her behalf. A third party individual or body may be instructed to carry out such a review by the Director of Service Delivery personally or by a council officer acting on his/her behalf.		
C28.	To determine applications for appropriate Housing Grants and the taking of all steps concerned with certification of payment of the same.		
C29.	To devise, manage and maintain the Housing Register maintained by the Council under the relevant statutory provisions in accordance with the Council's Housing Allocations Policy.		
C30.	To nominate people on the Council's Housing Register to properties managed by Homes First and the Registered Social Landlords in accordance with the Council's allocations policy.		
C31.	To exercise the Council's regulatory and any associated management functions in relation to fitness and standards of housing and residential accommodation.		
C32.	To exercise the Council's regulatory and any associated		

No	Function	Consultation	Limitation
	management functions in relation to houses in multiple occupation and private housing.		
C33.	To exercise all the Council's functions in relation to cremations, burials and all bereavement-related services.		
C34.	To collect, remove, recycle and dispose of waste and fly tipping waste to ESCC's nominated Waste Disposal Authority (WDA) site.		
C35.	To collect, remove, recycle and dispose of litter to ESCC's nominated WDA site.		
C36.	To authorise revisions to charges in relation to the following "charged for" services: Garden Waste, Trade Waste, Bulky Waste, as well as replacement bin provision; and new refuse bins and dog and litter bins to town and parish councils.		

### **Director of Service Delivery:**

No	Function	Consultation	Limitation
C37.	To manage, including the authority to agree usage (and, where appropriate, agree temporarily reduced charges for usage where such reduction is in the financial and/or overall interests of the Council) and, to maintain all the parks, pleasure grounds, gardens, open spaces, commons, recreational facilities, museums, nature reserves and allotments within the Council's control.		

No	Function	Consultation	Limitation
C38. C	All matters relating to pleasure boats, boatman's licences, fisherman's agreements and all such other matters related to the Council's powers and duties in relation to the coast, rivers and harbours.		
C38A. C	To exercise Council powers and responsibilities as the Newhaven Port Health Authority		
C39.	Regulatory functions.		
С	To exercise all the regulatory and any associated management functions for which the Council has responsibility, including but not limited to the following:		
	<ul> <li>a. Amenities on the highway.</li> <li>b. Animal welfare and control</li> <li>c. Caravan Sites</li> <li>d. Environmental protection</li> <li>e. Fitness and Standards of Housing</li> <li>f. Food Safety and Hygiene</li> <li>g. Gambling</li> <li>h. Gaming permits</li> <li>i. Hackney Carriages and Drivers</li> <li>j. Health and Safety at Work</li> <li>k. Houses in Multiple Occupation and Private Housing.</li> </ul>		
	I. House to house collections		
	<ul> <li>m. Highway management</li> <li>n. Licensable activities under the Licensing Act 2003</li> </ul>	2	
	<ul> <li>n. Licensable activities under the Licensing Act 2003</li> <li>o. Lotteries</li> </ul>		
	p. Markets		
	q. Motor Salvage Operators		

No	Function	Consultation	Limitation
	<ul> <li>r. Pest Control</li> <li>s. Leisure Boats</li> <li>t. Private Hire Vehicles drivers and operators</li> <li>u. Public Health</li> <li>v. Public Safety</li> <li>w. Registration Plates</li> <li>x. Residential Accommodation</li> <li>y. Scrap metal dealers</li> <li>z. Shops and Sunday trading</li> <li>aa. Street Collections</li> <li>bb. Street Trading</li> <li>cc. Water and Sewerage</li> <li>dd. Street Closures</li> <li>ee. Cremations, Burials and all Bereavement-related services.</li> </ul>		
C40. C	All matters relating to the investigation and prosecution of matters under the Health & Safety at Work legislation.	HLS	Using duly appointed inspectors as appropriate.
C41. C	To issue and serve notices pursuant to the Building Act 1984 and Building Regulations and to carry out works in default.		

# **Director of Finance and Performance (Section 151 Officer):**

No	Function	Consultation	Limitation
C42.	In respect of Treasury Management:		
	(i) to arrange the borrowing of money authorised by the		

No	Function	Consultation	Limitation
	Council and manage the Council's debt in accordance with any guidelines laid down by the Council, but this authority does not extend to matters other than the strict management of debt and does not include (for the sake of illustration only) other measures, such as interest rate swaps, any financial arrangements which are based on notional amounts of debt, or any speculative proposals of any kind;		
	(ii) to borrow by way of bank overdraft from the Council's current bankers, in accordance with the Treasury Management Strategy and any other relevant Council budgetary policy, subject to annual review by the bank and the Relevant Cabinet Member;	Relevant Cabinet Member	
	(iii) to manage the investment of the funds of the Council but not in equities or any investment of a speculative nature;		
	(iv) to implement and monitor a treasury management policy statement setting out the matters detailed in CIPFA's Code of Practice on Treasury Management in Local Authorities;		In the event of the Director of Finance and Performance wishing to depart in any material respect from the main principles of CIPFA's Code of Practice, the reasons must be disclosed in a report to Cabinet.
	(v) to have control of all money in the hands of the Council and to manage the Council's banking arrangements;		

No	Function	Consultation	Limitation
	(vi) to report, at or before the start of the financial year, to the Cabinet on the strategy for treasury management it is proposed to adopt for the coming financial year;		
	(vii) to take all executive decisions on borrowing, investment or financing and to act in accordance with CIPFA's Code of Practice on Treasury Management in Local Authorities; and		In the event of the Director of Finance and Performance wishing to depart in any material respect from the main principles of CIPFA's Code of Practice, the reasons must be disclosed in a report to Cabinet.
	(viii) to report to the Cabinet not less than twice in each financial year on the activities of the treasury management operation and on the exercise of delegated treasury management powers. One such report shall comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.	1	
С	(ix) quarterly reporting to the Audit Committees on treasury management activities and performance.		
C43.	To deal with all matters relating to the Council's insurances including without limitation:		
	(i) the authorisation of the payment of increased premiums as necessary, subject to any general direction of the Cabinet or the Council, and to a report being made to the Cabinet upon the matter of insurance generally from time to time;		
	(ii) the making of payments into the insurance fund.		

No	Function	Consultation	Limitation
	(iii) the making of payments in respect of any claims where the Council's insurers may be involved.		
C44.	[Deleted]		
C45.	To invest available funds on appropriate terms and in accordance with the Council's investment strategy.		
C46.	Where annual contributions have been made to specific reserves for either repairs and maintenance to land and buildings and facilities or replacement of equipment, vehicles, plant and transport, to incur the expenditure, subject to there being sufficient funds available to meet the expenditure.		
C47.	With the approval of the Chief Executive, to roll forward specified amounts within the revenue budget between financial years where it has not been possible to incur the expenditure within the approved financial year and where the appropriate budget is not overspent and the purpose of the expenditure is to remain the same. Any amounts rolled forward shall be reported to the next meeting of the Cabinet.		
C48.	[Deleted]		
C49.	[Deleted]		

Νο	Function	Consultation	Limitation
C50.	To maintain an adequate and effective Internal Audit Service and to be responsible for staff engaged in financial and key business plan target performance management work		
C51.	To make payment of any sums due from the Council.		
C52.	To make repayments to the Council's Pension Fund from those reserves earmarked for pension's contribution.		
C53.	To write off debts in accordance with the Council's Financial Procedure Rules.		
C54.	To investigate and report upon any allegations of fraud or dishonesty.		
C55.	For the purposes of the Regulation of Investigatory Powers Act 2000 (RIPA), the Investigatory Powers Act 2016 (IPA) and associated codes of practice, to perform all functions required of the Council's RIPA Monitoring Officer.	HLS in their capacity as Senior Responsible Officer for the Council's functions under RIPA and IPA	
C56.	Functions relating to:		
	<ul><li>(i) preparation and updating of the Medium Term</li><li>Financial Strategy</li></ul>		
	(ii) preparation of the Councils' annual budget proposal		

No	Function	Consultation	Limitation
	for consideration by Cabinet		
	(iii) invoicing of debtors		
	(iv) preparation of proposed fees and charges for consideration by Licensing Committee and Cabinet		
	(v) calculation of Council Tax Base and setting of precepts		
	(vi) responsibility for financial reporting including the preparation of annual report and accounts relating to both Councils and their trading companies		
	(vii) the financing of the Capital Programme;		
	(viii) any other services allocated to the Director of Finance and Performance by the Chief Executive.		
	(ix) quarterly reporting to Cabinet and audit committees on revenue and capital budget performance and forecas	t	

# Director of Regeneration and Planning:

No	Function	Consultation	Limitation
	To carry out the functions at C57 to C65 (Planning and Trees) in accordance with the Agency Agreement with the South Downs National Park Authority in respect of the Lewes District Council		

No	Function	Consultation	Limitation
	Area within the South Downs National Park. <sup>1</sup>		
	Planning		
C57. C	<ul> <li>To determine applications for planning permission, to vary planning permission, listed building consent, express consent to display advertisements, hazardous substances consent and footpath diversions pursuant to the Planning Acts, including:</li> <li>i) development specified in the GPDO where express planning permission is required by reason of limitations or conditions by that order;</li> <li>ii) determinations in connection with prior notification procedure under the GPDO;</li> </ul>		<ul> <li>The delegation shall not be exercised in relation to:</li> <li>a) applications for development which significantly conflicts materially with adopted policy, unless to refuse.</li> <li>b) applications requiring the Secretary of State to be notified under the Town and Country (Development Plans and Consultations)(Departures) Direction 2009, unless to refuse.</li> <li>c) applications materially affecting ancient monuments, and sites of special scientific interest, unless to refuse.</li> </ul>
	iii) in accordance with an agency agreement with the South Downs National Park Authority, applications and other matters in that part of the South Downs National Park within the Lewes district area; and		d) where the application has been made by an elected member (or their spouse/partner) of the Council; or any direct employee (or their spouse/partner) of Lewes District Council or Eastbourne Borough Council.
	(iv) reserved matters as defined in article 2 of the Town and Country Planning (Development Management Procedure (England) Order 2015.		e) where the Development Management Lead dealing with the matter considers that the application should be dealt with by the Committee.
			f) where a member of the Council not more than 28 days after the validation of an application requests the matter be determined by committee and that this request is

<sup>&</sup>lt;sup>1</sup> Text in green indicates a function unique to Lewes District Council

No	Function	Consultation	Limitation
			based on material planning grounds and in the view of the Development Management Lead has the potential to lead to a substantive/sustainable reason(s) for refusal.
			g) where a town or parish council in the Lewes district submits an objection (or comments in support, contrary to the officer's recommendation) within any notification period relating to the application, unless the objection or comment in support is not, in the opinion of the officer, reasonable or sufficient in planning terms to justify a referral to committee, in which case officer's reasons will be recorded.
			h) where a substantial number of objections have been received on material planning grounds and in the view of the Development Management Lead have the potential to lead to a substantive/sustainable reason(s) for refusal and these objections are in opposition (contrary) to the officer's recommendation.
C58. C	To negotiate the terms of and authorise section 106 planning obligations, to include applications to vary existing obligations and to determine all requests for approval made pursuant to these obligations.		Unless a Member of the Council not more than 28 days after the validation of an application to vary an existing section 106 obligation requests the matter be determined by committee and that this request is formed by material planning grounds and in the view of the Development Management Lead have the potential to lead to a substantive/sustainable reason(s) for refusal.
C59. C	To discharge applications for consent pursuant to the conditions and limitations imposed under the Planning Acts.		

No	Function	Consultation	Limitation
C60. C	To determine applications for lawful development certificates (TCPA, sections 191 and 192).	HLS in respect of section 191 applications (existing use)	
C61. C	To give, make and confirm any order or direction under the Planning Acts.	HLS	
C62. C	To issue, serve, modify and withdraw any notice under the Planning Acts, to include all types of planning enforcement activity and to carry out works in default.	HLS in respect of enforcement notices and temporary stop notices	
C63. C	The issue and service of a requisition for information on planning matters under the Local Government (Miscellaneous Provisions) Act 1976		
	Trees		
C64. C	To make and confirm Tree Preservation Orders with or without modification (and associated applications for consent for works) and to deal with notification of works to trees in conservation areas.		Not to confirm Tree Preservation Orders if there are any objections, unless the objection(s) are not based on valid planning grounds and in the view of the Development Management Lead in consultation with the Chair of Planning Committee do not have the potential to lead to a substantive/sustainable reason(s) not to confirm the Order.
C65. C	To determine applications and to take any action under the Anti-Social Behaviour Act (2003) Part 8		

No	Function	Consultation	Limitation
	(High Hedges).		
	Planning Policy		
C66. C	To determine the Council's stance in respect of and respond to consultation and opinions sought concerning cross boundary and neighbouring authority planning matters, and ESCC and the South Downs National Park Authority planning applications.	Chair of Planning Committee	
C67. C	To exercise all powers and duties under the Community Infrastructure Levy regulations, to include the determination of any applications for discretionary or exceptional circumstances relief from liability.		
	Building Control		
C68. C	To issue, serve, modify and withdraw any notice under the Building Act 1984, including in respect of ruinous and dilapidated buildings and neglected sites (section 79).		
	Other Regulatory Functions		
C69. C	All matters relating to the Planning (Hazardous Substances) Act 1990.		
C70. C	To issue and serve notices and take any further regulatory action where required, including enforcement in consultation with the HLS, under planning, environmental and other relevant legislation applicable to the Council as local planning authority.		Action must have regard to the Council's Regulatory Services Enforcement Policy

No	Function	Consultation	Limitation
C71.	To exercise the Council's powers in respect of water supply, sewerage and drainage, including land drainage.		
C72.	All matters relating to the naming and numbering of streets.	Relevant Cabinet Member and Ward Cllrs	
C73. C	To exercise the Council's powers affecting the design or maintenance of highways.		
C74.	All matters relating to coastal and dredging licence applications.		Such development must be permitted by a General Permitted Development Order or have been granted planning permission.
C75.	All matters relating to on and off-street parking.	Relevant Cabinet Member	
C76.	To manage the improvement, refurbishment and maintenance of the Council's non-housing property portfolio where not specifically the responsibility of other officers, this to include all tasks related to new build provision.		
C77.	To acquire land in connection with the Council's functions and to grant and/or modify leases, easements, licences and way-leaves of, in, or over buildings or land in connection with the Council's functions.		
C78.	To dispose of land in connection with the Council's functions and to grant and/or modify leases, easements, licences and way-leaves of, in, or over		

No	Function	Consultation	Limitation
	buildings or land in connection with the Council's functions.		
C79.	To vary the terms and conditions of, or negotiate the surrender of, leases and licences.		
C80.	To determine as landowner or landlord applications for licences, consents and permissions in respect of the Council's buildings or land.		
C81.	To determine asset of community value nominations and/or applications for compensation, pursuant to sections 87 to 108 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012; and to review successful nominations on receipt of a valid request made under section 92 of the Act.		

# Head of Legal Services:

No	Function	Consultation	Limitation
C82.	<ul> <li>Legal Proceedings: <ul> <li>a) To determine what, if any legal action should be taken following any investigation into a criminal matter.</li> <li>b) To institute, prosecute or terminate any proceedings which the Council is empowered to undertake in or before any Court, Tribunal, Inquiry or by way of Fixed Penalty Notice.</li> <li>c) To defend or settle any proceedings brought against the Council.</li> <li>d) To take any action incidental or inclusive to or which would facilitate any action under this paragraph, including instruction of Counsel and appearance in any Court, or any Inquiry, Tribunal or other forum on behalf of the Council.</li> <li>e) To advise the relevant Chief Officer who is contemplating administering a formal caution to a person that has admitted an offence.</li> <li>f) To determine whether or not any legal proceedings should be taken in any particular case or set of circumstances.</li> </ul> </li> </ul>		Except in relation to Health & Safety at Work in relation to a), b), c) and f).
C83.	To appoint and instruct external legal service providers where necessary, by reason of technical or specialist competence, rights of audience, resource availability or otherwise.		
C84.	To settle any claims where the Council's Insurers may be involved.	DFP	

No	Function	Consultation	Limitation
C85.	To negotiate and enter into planning or other agreements regulating or controlling the use of development of land.		
C86.	To make minor amendments in planning or other agreements regulating or controlling the use or development of land.		
C87.	To issue, serve, modify, or withdraw any enforcement action or notices under the Planning Acts, the Building Acts, the Environmental Protection Acts and any other such regulatory legislation enforced by the Council.		
C88.	To carry out or authorise the carrying out of works in default under any statutory provisions including but not limited to notices concerning ruinous and dilapidated buildings and neglected sites (Building Act 1984, Section 79).		
C89.	To give, make and confirm any Order or Direction under the Planning Acts including Tree Preservation Orders (and associated applications for consent for works) and notification of works to trees in conservation areas.		Not to confirm if there are any objections
C90.	To seal any document.	Relevant Chief Officer	
C91.	To negotiate and agree the terms of any contract.		
C92.	To sign any contract on behalf of the Council.		
C93.	To authorise the attendance of officers at Court under any statutory provision.		

No	Function	Consultation	Limitation
C94.	To authorise service of any statutory requisition for information as to interests in land.		
C95.	To execute any legal document on behalf of the Council.		
C96.	All matters relating to consultations with Sussex Police and other bodies in relation to anti-social behaviour.		
C97.	All matters relating to the consecration of land.		
C98.	To issue, serve, suspend or withdraw any notices in respect of any matter for which the Council has power to act.		
C99.	To carry out any and all functions of Senior Responsible Officer in connection with Part 2 of the Regulation of Investigatory Powers Act 2000, Part 3 of the Investigatory Powers Act 2016 and any related secondary legislation, as specified by the codes of practice issued under those Acts.		
C100.	To exercise the following functions for the management and administration of assets of community value (ACV) pursuant to Part 5, chapter 3, of the Localism Act 2011 and associated secondary legislation:		
	<ol> <li>to conduct reviews of the Council's decisions to include land/buildings in the Council's ACV list;</li> </ol>		
	<ol> <li>to conduct reviews of the Council's decisions in respect of ACV owners' claims for compensation; and</li> </ol>		
	to put in place all necessary procedures and processes		

No	Function	Consultation	Limitation
	to support the functions numbered 1 and 2 above.		
C101.	To take all and any measures necessary to exercise high standards of client care, regulatory compliance relevant to the solicitors' profession, and practice management, whether by applying for and maintaining a recognised legal practice mark such as Lexcel or by adopting equivalent standards.		
C102.	To formulate and implement a general undertakings policy and an undertakings policy for property transactions, to enable legally qualified members of the Legal Practice to give undertakings on behalf of the Council in appropriate circumstances and subject to any limitations or other controls set out in the policies.		

# Monitoring Officer (MO):

No	Function	Consultation	Limitation
C103.	Pursuant to sections 28(6) and (7) of the Localism Act 2011, to decide, in relation to members of the Council and members of town and parish councils in the Lewes district, whether to investigate allegations that a member has failed to comply with the Code of Conduct.	Independent Persons appointed by the Council.	
	Establish, maintain and publish the register of interests in accordance section 29(1) of the Localism Act 2011.		

No	Function	Consultation	Limitation
C105.	To grant dispensations for relief of interest restrictions	Independent Persons appointed by the Council if appropriate.	

# **D** Proper and/or Authorised Officer Functions

No	Act	Function	Officer	Deputy
D1.	All legislation prior to 1 <sup>st</sup> April 1972	Proper Officer in relation to references to Treasurer	DFP	Deputy DFP
D2.	All legislation prior to 1 <sup>st</sup> April 1972	Proper Officer in relation to declarations and certificates with regard to securities	DFP	Deputy DFP

#### Local Government Act 1972:

No	Act	Function	Officer	Deputy
D3.	Section 83(3)	Declarations of acceptance of office of Councillors	CE	HDS
D4	Section 84(1)(a)	Receipt of resignations of Councillors	CE	HDS
D5.	Section 88(2)	Convene a meeting of the Council to fill a vacancy of Chair of the Council	CE	HDS
D6.	Section 89(1)(b)	Receive from electors Notices of Casual Vacancies of Councillors	CE	HES
D7.	Section 100B(2)	Excluding from the public reports which are not likely to be considered in open session	HLS	HDS

No	Act	Function	Officer	Deputy
D8.	Section 100C(2)	Where part or the whole of the report has been exempt the Proper Officer shall make a written summary of the proceedings or a part to provide a record without disclosing the exempt information	HLS / HDS	
D9.	Section 100D	Compilation of list of background documents	Director or actual author of report for Director	
D10.	Section 100F(2)	Deciding whether documents for inspection contain exempt information under relevant paragraph of Schedule 12A which is not required to be open to inspection by Members of the Council	HLS / HDS	
D11.	Section 115(2)	For receipt of monies due to the Council from Officers	DFP	
D12.	Section 146(1)(a)	Statutory Declaration regarding change of name of the Authority in connection with the Companies Act 2006.	HLS	
D13.	Section 191(2)	Applications under the Ordnance Survey Act 1841	DSD	
D14.	Section 210	In respect of powers with regard to charities	HLS	
D15.	Section 225	Deposit of documents in accordance with Standing Orders of either House of Parliament, Enactment or Statutory Instrument	HLS	
D16.	Section 229	To certify photographic copies of documents to be a true copy.	HLS	
D17.	Section 234	To sign notices, orders or other documents authorised or required by or under any enactment.	HLS	
D18.	Section 236	To send copies of Byelaws to any parish and/or community	HLS	

No	Act	Function	Officer	Deputy
		councils to which it applies		
D19.	Section 238	Certification of printed copies of Byelaws	HLS	
D20.	Not applicable			
D21.	Parts IV and Schedule 12	Signing and serving of summonses to attend meetings of the Council.	CE	HDS
D22.	<b>U I I I I</b>	To certify copies of resolutions applying or disapplying provisions of the Public Health Act 1875 to 1925	HLS	

# Local Government Miscellaneous Provisions Act 1976:

No	Act	Function	Officer	Deputy
D23.	Section 41	To certify copies of resolutions, orders, reports or minutes of the Council or any predecessor authority	CE	HLS

# Local Government & Housing Act 1989:

No	Act	Function	Officer	Deputy
D24.	Section 2	To receive a list of politically restricted posts	CE	Deputy CE
D25.	Section 4	Designation as Head of Paid Service	CE	Deputy CE
D26.	Section 5	Designation as Monitoring Officer	HDS	HLS

#### **Representation of the People Act 1983:**

No	Act	Function	Officer	Deputy
D27.	Sections 8 and 52	Appointed as Electoral Registration Officer (s.8). Power to appoint Deputy Registration Officer (s. 52)	CE	HES
D28A	Section 28(1)(a)	Acting Returning Officer for Parliamentary elections	HE & LLC	
D28.	Section 35	Returning Officer at District Elections	CE (appointed by the Council when post- holder changes)	
D29.	Sections 82 and 89	To receive declaration of election expenses and holding of documents for public inspection	CE	DCE

# Local Government (Committees and Political Groups) Regulations 1990:

No	Act	Function	Officer	Deputy
D30.	Regulation 8	Receipt of Notice of Political Groups	CE	DCE
D31.	Regulation 10	Receipt of Notice of cessation of membership of Political Group	CE	DCE
D32.	Regulation 13	To accept wishes of Political Groups in respect of proportionality	CE	DCE
D33.	Regulation 14	To notify Political Groups of allocations	CE	DCE

#### Local Government Act 1974:

No	Act	Function	Officer	Deputy
D34.	Part 3	Local (-overnment ()mbudeman	CE	HLS

#### Local Authorities (Referendum) (Petitions and Directions) Regulations 2000:

Νο	Act	Function	Officer	Deputy
D35.	Whole	Proper Officer function	CE	HLS / HES

### Local Authorities (Conduct of Referendums) (England) Regulations 2007:

No	Act	Function	Officer	Deputy
D36.	Whole	Proper Officer function	CE	DCE / HES

#### The Neighbourhood Planning (Referendums) Regulations 2012

No	Regulation	Function	Officer	Deputy
D36A	Regulation 9	To be the Counting Officer for Referendums	HE & LLC	

#### Public Health Act 1936

No	Act	Function	Officer	Deputy
D37.	Section 79	Removal of noxious matter	DSD	
D38.	Section 84	Verminous Articles	DSD	
D39.	Section 85	Verminous People	DSD	

#### National Assistance Act 1948:

No	Act	Function	Officer	Deputy
D40.	Section 47	Removal of people in need		Officers of Health Authority etc authorised under S 113 (1A) of the Local Gov Act 1972

#### Public Health Act 1961:

Νο	Act	Function	Officer	Deputy
D41.	Section 37	Verminous Articles	DSD	

#### Public Health (Control of Disease) Act 1984

Νο	Act	Function	Officer	Deputy
D42.	Whole Act	Infectious Diseases and Dead Bodies	DSD	

#### Public Health (Infectious Diseases) Regulations 1988

No	Act	Function	Officer	Deputy
D43.	All	Infectious Diseases	DSD	

#### Food Safety Act 1990

No	Act	Function	Officer	Deputy
D44.	All	Food Safety	DSD	

#### Police Reform and Social Responsibility Act 2011

No	Act	Function	Officer	Deputy
D45.	Section 54	Local Returning Officer for Police and Crime Commissioner elections	HE & LLC	

#### Any other legislative provisions for which arrangements are not specifically made under this Scheme of Delegations:

No	Act	Function	Officer	Deputy
D46. /	All		CE	DCE

# **E** Specific authorisations for Court

#### E1 Officers authorised to represent the Council in Court etc:

- A. Every solicitor, barrister or legal executive employed or engaged by the Council shall be authorised to appear on its behalf before any Court, Tribunal or other Hearing before which they have a Right of Audience and to exercise the powers given by the relevant professional body.
- B. The following post holders are authorised to appear on behalf of the Council and to conduct proceedings in court and these are additional to the powers delegated by the Scheme of Delegation to Officers and the rights to appear in Court given to solicitors, barristers and legal executives:
  - a. pursuant to the Local Government Act 1972 section 223 and the County Courts Act 1984 section 60 (in respect of possession matters) and for any purpose for which the Council is empowered to authorise Officers to appear on its behalf:
    - (i) Legal Assistants
    - (ii) Trainee Solicitors
    - (iii) Other suitably experienced and/or qualified Officers specifically authorised in writing so to appear by the Head of Legal Services.
  - b. pursuant to the Local Government Act 1972 section 223 in respect of rating or council tax matters:
    - (i) The Director of Service Delivery
    - (ii) Officers of the Council authorised in writing so to appear by the Director of Service Delivery
  - c. pursuant to Part I of the Health and Safety at Work etc Act 1974
    - (i) Director of Service Delivery
    - (ii) Officers of the Council so authorised in writing to appear by the Director of Service Delivery and/or in accordance with the legislation.
  - d. pursuant to the Insolvency Rules 1986 Part 9 (examination of persons concerning company and individual insolvency)
    - (i) The Director of Service Delivery
    - (ii) Officers of the Council so authorised in writing to appear by the Director of Service Delivery

# **F** Authorisation to enter land or premises

#### F1 General:

- a. This authorisation authorises those Officers named in paragraphs F2-7 to enter land or premises for or in connection with their duties and pursuant to the functions mentioned.
- b. The authority to enter land or premises shall be exercisable subject to any statutory constraints.
- c. A reference to any Act shall include reference to any amendment or re-enactment and any subordinate legislation.
- d. In the event that a post ceases to exist or the name of the post is changed or the responsibilities of that post are transferred to another post temporarily or permanently then the authority given by this authorisation shall be exercisable by the officer in whose area of responsibility the previous responsibilities now reside.
- e. The right to enter given by paragraphs 2-7 below shall extend to the exercise of the power to make inspections, to provide samples and to examine and seize goods as and if appropriate.
- f. A person authorised to enter land may take with him or her or such other persons and equipment as may be necessary.
- g. This authorisation entitles the person authorised to enter land to seek a warrant to enter.
- h. The authorisation of an Officer to enter land shall be taken as this appointment of that Officer among other things for that purpose.

#### F2 All purposes:

- a. Chief Executive
- b. Deputy Chief Executive
- c. Directors
- d. Director of Finance and Performance
- e. Operational Lead Emergency Planning

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# F3 Environmental Health, Housing etc

The following are authorised to enter land or premises for the following function:

No	Function	Officer	Deputy
a.	Animal Welfare and Control	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time	
b.	Caravan Sites	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time	
C.	Environmental Protection	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time	
d.	Food Safety and Hygiene	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time	
e.	Health and Safety at Work	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time	
f.	Housing	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time.	
g.	Licensing Act 2003	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time.	
h.	Pest Control	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time.	
i	Public Health	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time.	

No	Function	Officer	Deputy
j.	Public Safety	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time.	
k.	Scrap Metal Dealers	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time.	
I.	Shop Acts	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time.	
m.	Street Trading	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time.	
n.	Sunday Trading	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time.	
0.	Environmental Protection	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time.	
р.	Gambling Act 2005	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time.	
q.	Street Closures	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time.	
r.	Cremations and Burials	Director of Service Delivery and such other Officers as shall be delegated to in writing by him/her from time to time.	

# F4 Planning

The following are authorised to enter land or premises for the following function:

No	Function	Officer	Deputy
a.	The Town and Country Planning Act 1990, Sections 178, 196A, 196B, 214B, 214C, 324 and 325A	Director of Regeneration and Planning and such other Officers as shall be delegated to in writing by him/her from time to time	
aa	Order made under the Plant Health Act 1967, including but not limited to those relating to Dutch Elm Disease	Director of Regeneration and Planning and such other Officers as shall be delegated to in writing by him/her from time to time	
b.	Planning (Listed Buildings and Conservation Areas) Act 1990, Section 88 and 88A	Director of Regeneration and Planning and such Officers as may be delegated to in writing by him/her from time to time	
C.	Planning (Hazardous Substances) Act 1990, Section 36, 36A, 36B and 36C	Director of Regeneration and Planning and such Officers as may be delegated to in writing by him/her from time to time	
d.	Anti-Social Behaviour Act 2003, Part 8, sections 74 and 77(5)	Director of Regeneration and Planning and such Officers as may be delegated to in writing by him/her from time to time	
e.	Local Government (Miscellaneous Provisions) Act 1976, sections 23 and 24	Director of Regeneration and Planning and such other Officers as shall be delegated to in writing by him/her from time to time.	
f.	Hedgerows Regulations 1997, regulations 12 and 13	Director of Regeneration and Planning and such other Officers as shall be delegated to in writing by him/her from time to time.	
g.	Community Infrastructure Levy Regulations 2010, regulation 109	Director of Regeneration and Planning and such other Officers as shall be delegated to in writing by him/her from time to time.	

## F5 Building Control

The following are authorised to enter land or premises pursuant to the following power:

No	Function	Officer	Deputy
a.	Building Act 1984, section 95	The Director of Regeneration and Planning and such Officers as may be delegated to in writing by him/her from time to time.	

# F6 Local Taxation

The following are authorised to enter land or premises pursuant to the following power:

No	Function	Officer	Deputy
a.		The Director of Service Delivery and such Officers as may be delegated to in writing by him/her from time to time	

# F7 Land Drainage and Sewerage Undertaking

The following are authorised to enter land or premises pursuant to the following function:

No	Function	Officer	Deputy
a.	Water Industry Act 1991	The Director of Service Delivery and Director of Regeneration and Planning and such Officers as may be delegated to in writing by them from time to time.	
b.	Land Drainage Act 1991	The Director of Service Delivery and Director of Regeneration and Planning and such Officers as may be delegated to in writing by them from time to time.	

### ANNEX A

Chief Officers' and Monitoring Officer's areas of responsibility:

Chief Executive (and Head of Paid Service)	Strategic leadership and the delivery of quality services. Legal and Democratic Services, Member Services, devolution and governance. Information and communications technology (ICT).
Director of Service Delivery	Service delivery, including but not limited to Customer First, Neighbourhood First, Environment First, Homes First, bereavement services and waste services.
Director of Regeneration & Planning	Planning First (planning policy and development control), property development, regeneration, energy and sustainability, Corporate Plan, procurement, asset management, strategic partnerships, voluntary sector, community engagement, community safety, community grants, youth strategy and equality.
Director of Tourism, Culture and Organisational Development	policy and procedure.
	Tourism, events, marketing, sports, seafront and cultural centre
Director of Finance and Performance (Section 151 officer)	Accountancy, internal audit, counter-fraud, purchasing and payments, general income & system support, business planning and performance.
Monitoring Officer	The assurance that all actions and decisions taken by the Officers and Members of the Council are lawful and that the interests of the Council are legally protected and enhanced. All arrangements related to the maintenance and promotion of high standards of conduct among Councillors and arrangements for dealing with complaints about Councillor conduct.

# PART 10

# Public Speaking at Planning Applications Committee

#### Introduction

The Council operates a scheme whereby interested parties have the opportunity to speak at meetings of the Planning Applications Committee. The Council considers this adds value to the planning process, offering increased involvement for the public and more informed decision-making by the Committee.

These guidance notes set out how the scheme operates and what to expect at the meeting itself. They are designed to make the system as fair and easy to operate as possible.

#### Scope of the Scheme

The scheme only applies to applications included on the agenda for a particular meeting. For this purpose, applications include Planning Applications, Listed Building and Conservation Area Consent Applications Advertisement Applications and Tree Applications. The scheme does not apply to Enforcement matters, applications for Certificates of Lawful Use or applications where the Council is not the determining authority.

#### Who may speak?

Anyone with an interest in an application is able to speak and to make the system manageable, the following numbers have been agreed:

Speaker	Number
Town/Parish Council	1 representative
Ward Member/s (that are not a member of the Committee and represent that ward)	No limit
Objectors (This includes local residents and any professional representative. Amenity Societies/Residents Associations are included but do not have an automatic right to speak.)	Up to 3 representatives
Applicant/Agent/Supporters (Local residents, Amenity Societies etc. may also be supporters. The applicant (or nominee) will have priority in deciding who should speak.)	Up to 3 representatives

Applicants/Agents and those who have commented on an application will be notified of the date when it is to be considered by the Planning Applications Committee so that they can register their interest in speaking (see section below on Registering an interest to speak).

Speakers are selected on a "first come, first served" basis until the above numbers have been reached. Subsequent objectors/supporters may be put in touch with those who have already registered to speak so that they can agree what they want to say, either for or against an application, and who will speak.

\*If a Member of the Committee is also a Local Ward Member, wishes to speak against, or in support, of an application in that capacity and has registered to speak, then they are allowed to withdraw from the meetings proceedings for that item only and speak for 5 minutes on that particular item. In this event, they would not take part in the debate nor have a vote on the determination of the application on which they spoke. Having spoken, they would be required to leave the room. They then may return to the Committee to determine the remaining items.

#### Time limits for speakers

The maximum time for each speaker is three minutes, other than the Ward Member/s and Town/Parish Councillors who have five minutes, and this is strictly controlled.

#### **Procedure at meetings**

Those who have registered their interest to speak should arrive at the venue at least 15 minutes before the start to be briefed on the procedure. The sequence of speakers is as follows:

- 1. Presentation of application by Planning Officer
- 2. Town/ Parish Council representative\*
- 3. Objectors (up to 3)\*
- 4. Applicant /Agent/ Supporters (up to 3 with applicant having priority)\*
- 5. Further clarification by planning officer (if required)\*
- 6. Ward members (including committee members if following the above\* procedure)
- 7. Committee debate and decision

\*If the 'opportunity for speak' is taken up.

Committee members are not able to question speakers directly but are permitted to ask "closed" questions to seek clarification or provide more information through the Chair only.

Speakers are asked to make verbal presentations only (unless special disability circumstances apply). If a written copy of a presentation is submitted this is included on a supplementary report, provided it is received by Planning Services not later than the day before the meeting.

If an application is deferred, speakers are allowed an opportunity to speak at a subsequent meeting when the application in which they have an interest is considered again.

#### Venue and time of meetings

All meetings start at 5pm. Meetings of the Planning Applications Committee are held on a monthly cycle on a Wednesday in Lewes. However, it may sometimes be necessary to change the venue to another part of the District and prior notice will be given.

#### Registering an interest to speak

If you wish to speak you must register your intention **not later than 12 noon two working days before the Committee meeting**.

To register to speak on an application, please email <u>committees@lewes-</u> <u>eastbourne.gov.uk</u>. You will need to provide your name, address, contact telephone number, the application number, state whether your speech is in favour or against the application, and your relationship to the application site.

#### **Relevant issues**

When considering applications the Committee members can only take account of relevant "Planning" issues. These can include:

- Structure & Local Plan Policies
- Government Guidance including Orders and Circulars
- Case Law and previous decisions
- Highway safety, traffic, parking
- Noise, disturbance, smells
- Design, appearance, layout, materials, character
- Overshadowing, loss of privacy, residential amenities
- Effect on Listed Buildings, Conservation Areas, Trees

There are also certain issues which the Committee members cannot take into account in making planning decisions. Please do not waste your speaking time on these matters.

These include:

• Matters covered by other laws e.g. licensing

- Private property rights
- Effect on value of property
- Loss of view from a private property
- Possible future development
- Preferable alternative development
- Personal circumstances (except in exceptional cases)
- Applicant's morals or motives
- Moral/religious issues.

Please note there is no legal protection for comments made at meetings and it is therefore important that derogatory or defamatory statements are avoided.

### **Further information**

If you have any queries about the scheme please contact the Planning department (01273 471600).

# Item V Updated: November 2023

# Part 11

# Section 1

# Remit of the Council

The powers and duties of the Council are set out in Article 4.2 of the Constitution (pages B6 and B7).

# **Remit of the Policy and Performance Advisory Committee**

#### 1 Membership

- **1.1** There shall be one Policy and Performance Advisory Committee consisting of eleven councillors appointed by Council. The quorum shall be three.
- **1.2** Committee membership will be balanced to political proportions and cannot include Cabinet members. It will be chaired by a member from an opposition group.
- **1.3** All non-executive members on the Council can act as substitutes for the standing membership but can only substitute for a member from the same group.
- **1.4** Any councillor who is not a member of the Committee may attend a meeting of the Committee but may only speak at the meeting at the invitation of the Chair.
- **1.5** The Committee may invite any person to attend and take part in a review being conducted by the Committee, but such person shall not have voting powers.
- **1.6** The Committee, when dealing with any housing matter relating to the Council's management of its housing stock shall include two representatives of the Lewes District Organisation of Tenant and Residents Groups who shall be entitled to speak but not vote on any such matter. The tenants' representatives shall not be entitled to be present when any matter is discussed which is designated as an exempt item.

### 2 Remit of the Policy and Performance Advisory Committee

**2.1** The remit of the Policy and Performance Advisory Committee is set out in Article 6 of the Constitution (pages B10-B14).

#### 3 Procedures and Method of Working of the Policy and Performance Advisory Committee

**3.1** The procedures and method of working to be adopted by the Policy and Performance Advisory Committee is set out in the Policy and Performance Advisory Procedure Rules in Part 4 of the Constitution (pages H1 – H11).

## **Remit of the Licensing Committee**

#### 1. Membership

- **1.1** The Licensing Committee shall consist of ten members chosen on the basis of proportionality to reflect the political composition of the Council.
- **1.2** When discharging its functions under the Licensing Act 2003, the Licensing Committee will be quorate when three members are sitting.
- **1.3** Sub-committees established by the Licensing Committee to discharge its functions under the Licensing Act 2003 will be quorate when three members are sitting. The members of the Committee shall appoint a Chair from amongst themselves.

#### 2 Powers and Duties under the Licensing Act 2003

- **2.1** To undertake all the Council's functions as Licensing Authority under the Licensing Act 2003 (save for those functions specifically conferred on full Council by the Act).
- **2.2** To establish sub-committees of three members chosen from the Licensing Committee on the basis of political proportionality to carry out its functions.
- **2.3** To make recommendations to the Council about:
  - (i) the determination by Council of a Statement of Licensing Policy;
  - (ii) The review by Council of that Statement of Licensing Policy (in accordance with the provisions of the Licensing Act 2003); and
  - (iii) any revisions to the Statement of Licensing Policy.
- **2.4** To delegate any of its functions to its sub-committees or officers subject to any restrictions imposed by the Licensing Act 2003 and the Guidance and Regulations made thereunder.

# **2.5** Notwithstanding 2.4 above, to delegate the following functions as shown:

Matter to be dealt with	Full Committee	Sub- Committee	Director of Service Delivery or any properly appointed deputy or other officer authorised to act
Application for a personal licence		If police objection made	If no representation made
Application for personal licence with unspent convictions and police objection		All cases	
Determination of minor variation			All cases
Application for premises licence/club premises certificate		If relevant representation made	If no relevant representation made
Application for provisional settlement		If relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If police representation made	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If police representation made	All other cases
Application for Interim Authorities		If police representation made	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when Council is a consultee and not the Licensing Authority		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If police representation made	All cases
Determination of an objection to a temporary Event Notice		All cases	
Decision to make a representation			All cases

on behalf of the Licensing Authority		
Application for authorisation of films already classified by British Board of Film Classification (BBFC)	All cases	
Application for authorisation of films not already classified by British Board of Film Classification (BBFC), or the Council		All cases

#### 3. Powers and Duties under the Gambling Act 2005

- **3.1** To undertake all the Council's functions as Licensing Authority under the Gambling Act 2005 (save for those functions specifically conferred on full Council by the Act).
- **3.2** To establish sub-committees of three members chosen from the Licensing Committee to carry out its functions.
- **3.3** To make recommendations to the Council about:
  - (i) the determination by Council of a Statement of Gambling Policy;
  - (ii) the review by Council of that Statement of Gambling Policy (in accordance with the provisions of the Gambling Act 2005); and
  - (iii) any revisions to the Statement of Gambling Policy.
- **3.4** To delegate any of its functions to its sub-committees or officers subject to any restrictions imposed by the Gambling Act 2005 and the Guidance and Regulations made thereunder.
- **3.5** Notwithstanding 3.4 above, to delegate the following functions as shown:

Matter to be dealt with	Full Council	Sub-Committee	Officers
Three year licensing policy	All cases		
Policy not to permit casinos	All cases		
Fee setting (when appropriate)	All cases		
Application for premises licence		If a representation made	If no representation made
Application for a variation of		If a representation	If no representation

Matter to be dealt with	Full Council	Sub-Committee	Officers
a licence		made	made
Application for a transfer of a licence		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Review of a premises licence		All cases	
Application for club gaming/ Club machine permits		If a representation made	If no representation made
Cancellation of club gaming/ club machine permits		All cases	
Applications for other permits			All cases
Cancellation of licensed premises gaming machine permits			All cases
Consideration of temporary use notice			All cases
Decision to give a counter notice to a temporary use notice		All cases	
Determination whether a Hearing needs to be held			All cases
Determination whether a representation is relevant			All cases
Determination of an appropriate Hearing procedure			All cases

#### 4 Other Powers and Duties

**4.1** To deal with taxi, entertainment, food and miscellaneous licensing (other than licensing functions arising out of the Licensing Act 2003 and the Gambling Act 2005).

- **4.2** To deal with the Council's functions relating to health and safety under any "relevant statutory provision" within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.
- **4.3** To deal with enforcement functions (other than development control enforcement in accordance with town and country planning legislation) including but not limited to contaminated land, pollution control, statutory nuisances, byelaws, litter and food premises.
- **4.4** To deal with appeals relating to any of the above.
- **4.5** To establish sub-committees of three members chosen from a pool of ten on the basis of political proportionality whenever possible to carry out its functions.

# 5 Regulation of Business when discharging those functions described in paragraph 2 above (ie functions under the Licensing Act 2003)

- **5.1** For the purpose of fulfilling its functions under 2.3 above, the Committee shall consider the following:
  - (i) A joint report from the Head of Environmental Health and the Council's senior legal officer;
  - (ii) The draft (or current) Statement of Licensing Policy;
  - (iii) Any representations received in response to formal/statutory consultation.

The Head of Environmental Health and the Council's senior legal officer shall report the Committee's recommendations to Council.

**5.2** Sub-Committees appointed to hear and determine applications made under the Licensing Act 2003 shall decide the procedure to be followed for the hearing. That procedure shall be subject to the provisions of the Act and the Regulations and Guidance made thereafter.

# 6 Regulation of Business when discharging those functions described in paragraph 4 above

- **6.1** The Committee shall, at any hearing, consider any representations made by any person affected.
- **6.2** Every person affected shall be entitled to be present at the hearing, other than any part of it set aside by the Committee exclusively for the purpose of arriving at the decision, and
  - (a) to be heard by the Committee;

- (b) to call persons to give evidence; and
- (c) to put questions to any other person who gives evidence,

and may for these purposes be accompanied or represented at the hearing by any person of their choice.

- **6.3** Matters under consideration by the Committee shall be decided by a simple majority of votes cast and, in the case of an equality of votes, the Chair shall have a second or casting vote.
- **6.4** The Committee may regulate their own procedure (subject to compliance with legal requirements) at the hearing and may, in particular, receive representations and evidence from such persons present as they consider appropriate. Witnesses will not be admitted to the hearing until the point at which they are called to give evidence unless the Committee otherwise decides
- 6.5 The Committee is advised to adopt a procedure on the following lines:
  - (a) **Opening Remarks** by the Chair of the Committee introducing those present at the hearing, and ensuring that the appellant understands the procedure to be followed at the hearing.
  - (b) The Council's Case

Opening remarks by the Council's representative.

The Council's representative to call any witnesses.

The appellant or his representative may question any witness.

The Chair or members of the Committee may wish to ask questions.

The Council's representative is then to have the opportunity of asking any further questions of any Council witness to clear up any point in the earlier questioning.

#### (c) Appellant's Case

The appellant (or his/her representative) will open his/her case.

The appellant (or his/her representative) to call any witness and/or give evidence in support of his case.

The Council's representative may question any witness, including the appellant if he/she gave evidence.

The Chair or members of the Committee may wish to ask questions.

The appellant or his/her representative is then to have an opportunity of asking any further questions of any witness to clear up any points raised in the earlier questioning.

#### (d) **Closing Statements**

By the Council's representative.

By the appellant or his/her representative.

- (e) The Chair of the Committee will then ask the Clerk if there are any other matters to be raised or resolved before the hearing is closed. If not, the Chair will then close the proceedings, indicating that a copy of the Committee's decision and the reasons for it will be sent to the appellant and the Council.
- (f) Both the appellant's and the Council's sides will withdraw from the hearing.
- **6.6** The Clerk to the Committee shall keep a sufficient record of the Committee's proceedings.
- **6.7** A copy of the record of each hearing shall be given or sent to the Council and to the interested person within seven days of the hearing, or if this is not reasonably practicable, as soon as possible thereafter.
- **6.8** The Director of Finance of the Council may approve and pay reasonable travelling expenses claims in respect of attendance at hearings by each interested person and one other person representing or accompanying him/her.

# Remit of the Audit and Governance Committee

#### 1 Statement of Purpose

- **1.1** Provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process.
- **1.2** Promote and maintain high standards of conduct by Members and Co-opted Members of the Council.

#### 2 Membership

- **2.1** The Audit and Governance Committee shall consist of seven members of the District Council. The quorum shall be four.
- **2.2** Up to 3 additional co-opted non-voting Town/Parish members may participate in Standards, but not Audit, matters.
- **2.3** The terms served by Town/Parish members shall run concurrently with the term of office of the District Councillors.
- **2.4** The Chair shall be elected from a non-Cabinet member of the Minority Groups.
- **2.5** Any Independent Person appointed by the Council under section 28(7) of the Localism Act 2011 shall have the right to attend meetings of the Committee and Standards Panel hearings in an advisory, non-voting, capacity.

#### 3 Powers and Duties

# 3.1 The Committee is responsible for carrying out the following statutory Audit duties:

- To review progress with the External Auditor on audit systems and final audits and respond to any matters raised by the External Auditor. A meeting between the External Auditor and members of the Audit and Governance Committee can be held at the request of either party;
- b) To review the External Auditor's Management Letter and the conclusions of Value for Money Studies and make recommendations to the Cabinet;

- c) To keep under review the probity and the effectiveness of internal controls, both financial and operational, including the Council's arrangements for identifying and managing risk;
- d) To keep the effectiveness of management arrangements under review to ensure legal and regulatory compliance;
- e) To review the effectiveness of corporate governance arrangements and to oversee production of the Annual Governance Statement and recommend its adoption;
- f) To agree a three year strategic audit programme and annual programme and keep them under review:
- to ensure co-ordination between internal and external auditors, and
- to make recommendations to the Cabinet to ensure that the internal audit function is adequately resourced and is able to discharge its functions effectively;
- g) To consider the Chief Internal Auditor's Annual Report and to report annually to the Cabinet on the adequacy and effectiveness of internal controls within the Council;
- To review the annual statement of accounts, and consider whether the appropriate accounting policies have been followed and whether there are any concerns that need to be brought to the attention of the Council; and to approve the Council's annual accounting statements

# 3.2 In addition, the Committee is responsible for exercising the following Audit powers:

- a) To consider the significant findings of internal audit investigations, the responses of Chief Officers to those findings and any matters the Chief Internal Auditor may wish to discuss (in the absence of Chief Officers if necessary);
- b) To commission work from internal and external audit;
- c) To maintain an overview of the Council's Constitution in terms of contract procedure rules, financial regulations and codes of conduct and behaviour;
- d) To monitor Council policies on Whistleblowing and Anti-Fraud and Corruption;
- e) To review Treasury Management Policies and the Treasury Strategy and to recommend any changes to those documents to Cabinet for consideration; and

f) To oversee the operation of the Council's policy on the use of powers under Part 2 of the Regulation of Investigatory Powers Act 2000 ('RIPA') by receiving reports every 12 months on the policy and its implementation, and on any RIPA authorised activity conducted during the preceding 12-month period.

# 3.3 The Committee is responsible for carrying out the following statutory Standards duties:

- a) To recommend to Council the adoption of a Code of Conduct dealing with the conduct expected of Members and Co-opted Members of the Council when acting in that capacity and including provision in respect of the registration and disclosure of (a) pecuniary interests and (b) interests other than pecuniary interests; and to recommend to Council, as and when necessary, revisions to the existing Code of Conduct or the adoption of a replacement Code of Conduct; and
- b) To put in place, and to revise where necessary, arrangements to investigate and make decisions on written allegations that a Member or Co-opted Member of the Council has failed to comply with the Code of Conduct.

# 3.4 In addition, the Committee is responsible for exercising the following Standards powers:

- a) To grant a Member or Co-opted Member a dispensation from the restriction on speaking and/or voting when any matter in which that person has a disclosable pecuniary interest is to be considered at a meeting of the Council or any of its committees, sub-committees, joint committees or joint sub-committees.
- b) To consider the Monitoring Officer's Annual Report on the establishment and maintenance of a register of interests of Members and Co-opted Members of the Council
- c) To delegate to the Standards Panel the functions set out in paragraph 3.6.3 below.

#### 3.5 Appointment of Independent Persons

- a) The Chair of the Committee shall be a member of the Council's Independent Person Selection Panel whose role is to recommend to Council the appointment of one or more Independent Persons pursuant to section 28(7) of the Localism Act 2011.
- b) The Independent Person Selection Panel shall also comprise the Council's Monitoring Officer.

- c) Where it is intended that one or more Independent Persons be appointed to advise both Lewes District Council and Eastbourne Borough Council (EBC), the Selection Panel shall operate as a joint panel for both councils and shall comprise, in addition to those mentioned in 3.5(a) and (b), the Chair of EBC's Audit and Governance Committee.
- Where the Selection Panel operates as a joint panel, its recommendations as to the appointment of one or more Independent Persons shall be made to a full Council meeting of LDC and, separately, of EBC.

#### 3.6 Standards Panel

#### 3.6.1 Status

The Standards Panel is a sub-committee of the Audit and Governance Committee.

#### 3.6.2 Composition

- (i) The Standards Panel shall comprise three Members chosen from the membership of the Audit and Governance Committee and in a manner that achieves a political balance (unless the Council agrees to other composition arrangements which shall be subject to a vote at the annual meeting of the Council each year with no votes being cast against the proposition).
- (ii) Where the Member against whom an allegation of misconduct is made (the 'subject member') is a member of a town or parish council, the Standards Panel may consist of two members of the Audit and Governance Committee and one member of a town or parish council, subject to the latter member having no material connection or association with the subject member.

#### 3.6.3 Functions

The functions of the Standards Panel are-

- where the Monitoring Officer has referred to the Standards Panel an Investigating Officer's report on the conduct of a Member, to decide, in consultation with the Independent Person, whether that Member has failed to comply with the Code of Conduct;
- to have regard to a Member's or Co-opted Members' failure to comply with the Code of Conduct, and to the views of the Independent Person, in deciding whether to take action in relation to the Member and what action to take;

- (iii) in respect of applications in relation to the grant of dispensations from Members or co-opted Members with pecuniary interests, which have been referred to the Panel by the Monitoring Officer where the Monitoring Officer has chosen not to exercise his/her delegated powers, to hear and determine such applications and in appropriate cases to grant dispensations from the restrictions on speaking and/or voting at meetings of the Council, its committees, sub-committees, joint committees or joint subcommittees; and
- (iv) to discharge any other functions of the Audit and Governance Committee which the Committee delegates to the Panel.

#### 3.6.4 Standards Panel Hearings

- (i) The procedure to be adopted by the Standards Panel at hearings into an allegation that a Member or Co-opted Member failed to comply with the Code of Conduct shall be approved and, as and when necessary, revised by the Audit and Governance Committee.
- (ii) For each hearing, those Members who comprise the Standards Panel will be required to attend one or more briefings in advance given by the Monitoring Officer or his/her Deputy with regard to their role and decision-making process.

# Remit of the Joint Staff Advisory Committee

#### 1 Membership

- **1.1** The Joint Staff Advisory Committee shall comprise:
  - 3 Members from Lewes District Council including at least 1 Cabinet Member and 1 opposition member.
  - 3 Members from Eastbourne Borough Council including at least
     1 Cabinet Member and 1 opposition member.
  - 2 union representatives
  - 2 staff representatives
- **1.2** Named substitutes can be appointed for Councillors and for staff representatives.

#### 2. Quorum

**2.1** Quorum for the Committee shall be at least 3 members of the Committee including 1 Councillor from each authority and 1 staff representative.

#### 3. Chairing

- **3.1** The Chair will be appointed at the first meeting of each municipal year.
- **3.2** It will be normal practice for the chairmanship of the Committee to rotate between authorities and a staff representative (e.g. year 1 Eastbourne Councillor, year 2 Lewes Councillor, year 3 staff representative).
- **3.3** A deputy chair will be appointed at the first meeting of each municipal year from any constituent group.

#### 4. Frequency

- **4.1** The Committee will normally meet 4 times a year and will usually alternate locations between Eastbourne and Lewes.
- **4.2** Additional meetings can be called if required for any matter that needs to be considered urgently.

#### 5. Status

**5.1** The Committee will meet in public and will be an advisory committee (non-statutory).

**5.2** It will make recommendations to each Full Council, Cabinet and Chief Officers as appropriate in relation to the matters set out in section 6 below.

#### 6. Purpose of Committee

- **6.1** To act as an internal advisory committee which serves as a conduit between members and staff on employment related matters, and to make recommendations on such matters.
- **6.2** To consider and comment upon any policies relating to the application of new relevant legislation and equality issues.
- **6.3** To consider matters of health, safety and welfare of employees which are referred to the Committee for comment (which are not included in the terms of reference of the Joint Safety Committee).
- **6.4** Discussion of matters relating to individuals shall not be within the Committee's jurisdiction except as set out in paragraph 6.5 below.
- **6.5** For all appeals against staff dismissal and grievance, the Assistant Director HR and Transformation shall invite 2 Councillor Members of this Committee to be a part of the relevant appeals panel.

### **Remit of the Joint Appointments and Appeals Committee**

#### 1 Membership

**1.1** The Joint Appointments and Appeals Committee shall comprise:

3 Members from Eastbourne Borough Council including at least 1 Cabinet Member and 1 opposition member (politically balanced as far as possible).

3 Members from Lewes District Council including at least 1 Cabinet Member and 1 opposition member (politically balanced as far as possible).

**1.2** Members shall be selected as and when the need for a Committee arises and where possible shall include the portfolio-holding Cabinet Member from each Council most relevant to the position which is the subject of the recruitment.

#### 2. Quorum

2.1 The quorum shall be 3 members, with at least one from each Council.

#### 3. Chairing

**3.1** The chair will be elected at each individual meeting of the Committee.

#### 4. Frequency

**4.2** The Committee will be convened on an ad hoc basis as and when required.

#### 5. Purpose of Committee

- **5.1** To recommend to Full Council the appointment of the Head of Paid Service, and the designation of the Monitoring Officer and Chief Finance Officer (Section 151 Officer).
- **5.2** To make appointments to the post of statutory and non-statutory Chief Officers (with the exception of the appointment of the Head of Paid Service) and to determine the terms on which Chief Officers are appointed.
- **5.3** To deal with appeals against dismissal, grading and grievances by statutory and non-statutory Chief Officers.

# Remit of the Planning Applications Committee

#### 1 Membership

**1.1** The Planning Applications Committee shall consist of eleven members. The quorum shall be five.

#### 2 Powers and Duties

- **2.1** To determine planning applications and other matters of Planning Control within the policies and guidance laid down by the Cabinet and Council.
- **2.2** To ensure the highest standards of Building Control continue within the District Council boundaries.
- **2.3** To make recommendations to the Cabinet or the Scrutiny Committee on all matters of policy arising from the exercise of its powers and duties.

#### 3 Delegated Powers and Duties

- **3.1** There shall be delegated to the Committee all the powers and duties of the Council relating to the following, whether in its capacity as local planning authority or in its capacity as agent for the South Downs National Park Authority:
  - (a) the determination of all applications under the Planning Acts, or any other similar applications;
  - (b) so far as (a) above is concerned, if the approval of the application as proposed by the Applications Committee would be contrary to
    - (i) the Local Plan or other Council Policy or South Downs National Park Authority policy; and
    - (ii) the proposed development is of strategic significance for the future development of the District; and
    - (iii) the development has been identified as such in the report of the Director of Regeneration and Planning

such application shall be referred to the Council or to the South Downs National Park Authority as appropriate for information.

(c) consideration of appropriate action to remedy breaches of planning control and to secure tree preservation in the District;

- (d) the making of observations on planning applications in an adjoining planning authority's area and on proposals for development by statutory undertakers, Government departments, etc; and
- (e) street naming and numbering under Sections 17/18 of the Public Health Act 1925.
- (f) the obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.
- (g) the obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- (h) the appointment of any individual
  - to any other office other than an office in which he/she is employed by the Council and the revocation of any such appointment;
  - (ii) to any other body other than -
    - (a) the Council
    - (b) joint committee of two or more councils

and the revocation of any such appointment; or

- (iii) to any committee or sub-committee of such a body, and the revocation of any such appointment provided that such appointment is in relation to development control functions.
- Functions relating to town and country planning, trees, hedgerows and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) as amended.
- (j) The exercise of powers relating to the regulation of the use of highways, footpaths, bridleways and public rights of way and means of access to land as set out in Schedule 1 to the Functions Regulations as amended insofar as they are powers exercisable by the District Council.

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# Item W Updated: 20/04/2020

# **PART 12**

# **Role Profiles**

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#### **Role Profile of All Councillors**

- 1. To collectively be the ultimate policy and budget makers and carry out a number of strategic and corporate management functions fulfilling statutory and any additional locally determined requirements including participating effectively as a member of any committee to which the councillor is appointed.
- 2. To respond to constituents' enquiries and representations fairly and impartially.
- 3. To balance different interests identified within their ward and represent the ward as a whole.
- 4. To be involved in decision-making where appropriate.
- 5. To participate in councillor training and development.
- 6. To be available to represent the Council on other bodies, developing and maintaining a working knowledge of the authority's policies and practices in relation to the bodies; to take part fully in the activities of any outside body to which appointed by the Council, and provide a means of two-way communication between that organisation and the Council.
- 7. To develop a working knowledge of the Council's policies and practices, in particular the Corporate Plan.
- 8. To develop a working knowledge of the Council's services, management arrangements, powers, duties and constraints and develop good working relationships with officers of the Council.
- 9. To contribute constructively to open government and modernisation through active encouragement to the community to participate in the governance of the district.
- 10. To participate in the activities of any political group of which the councillor is a member.
- 11. To champion the causes which best relate to the interests and sustainability of the community and campaign for the improvement of the quality of life of the community in terms of equality, economy and environment.
- 12. To maintain the highest standards of conduct and ethics and comply with all relevant Codes of Conduct and protocols.

## Ward Councillor Compact

The purpose of this voluntary two-way agreement between the Council and Councillors is:

- To set out the Council's expectations of the role, encouraging basic minimum standards of activity in each of the dimensions and functions of the job, combining specific tasks with suggested approaches, skills and behaviour;
- To help define best practice for ward councillors and to suggest how to take that forward; and
- To set out the Council's commitment to provide support and training for councillors.

#### Expectations of the Role of Ward Councillor

Councillors should:

- communicate with the public in a variety of ways including electronically and in person;
- work with officers and political groups to identify and address their training needs;
- identify areas suitable for performance review and involve the public and communities in the process;
- look for ways to promote democracy and increase public and community engagement including through town and parish councils and interest groups;
- represent effectively and be an advocate for local residents, their communities and wards in their relations with the District Council and other local and national government bodies;
- provide a conduit through which residents can make better use of council services and be the key link between council officers and local communities; and
- keep up-to-date with local concerns by drawing information from diverse sources including hard to reach groups.

# The Council's Commitment

The Council will:

- provide basic induction training, including how to contact relevant officers, plus continuous development in a variety of time slots and formats (including external training opportunities), strategically planned and including support and development in appropriate skills
- provide sufficient IT equipment and support to enable councillors to undertake their role
- disseminate relevant and useful ward intelligence to councillors including contacts for local organisations
- support councillors to enable them to engage actively with residents and community groups

# Suggested activities to help councillors fulfil the compact and their constitutional role

#### **Communications:**

- Make full use of IT provision including email and individual councillor website
- Provide local newsletters, surveys and surgeries

#### Training:

- Participate fully in the training available to councillors
- Take advantage of a "buddy" scheme for new councillors

#### Community Engagement:

- Use the Policy and Performance review process to raise community and ward issues
- Encourage the use of public question time at Council and Cabinet
- Liaise with community organisations and establish how they can better connect with Council services and resources

# Role Profile of the Chair and Vice-Chair of the Council

The Chair and Vice-Chair will be elected by the Council annually. The Chair and, in his/her absence, the Vice-Chair, will have the following responsibilities:

- 1. To chair Council Meetings.
- 2. To provide impartial and credible leadership of the civic and ceremonial aspects of the Council's business, both internally and externally.
- 3. To focus his/her activities on the communities of the District (including communities of interest, as well as geographical ones) and, by focusing on the Council's priorities, strengthen links between those communities and the Council.
- 4. To act as an enabler and ambassador by arranging meetings between the Council and other parties for the benefit of the District.
- 5. To celebrate those people or groups in the District who do extraordinary things to help others in the community, and to recognise those whose everyday lives are a challenge but who succeed in spite of their difficulties.
- 6. To celebrate successes of partners involved in major projects with the Council, particularly projects steered by the voluntary sector.
- 7. To encourage activities that recognise and support staff.

The Chair may appoint a Consort of their choice if they so wish. The Chair may take their Consort to appropriate events although such Consort shall not be expected to have a role to play at the event.

#### Role Profile of the Leader and Deputy Leader of the Council

- 1 To provide effective strategic leadership to the Council and ensure that the Council successfully discharges its overall responsibilities for the activities of the organisation as a whole.
- 2 To provide visible political leadership in relation to citizens, stakeholders and partners in the overall co-ordination of Council policies, strategies and service delivery.
- 3 To provide community leadership and together with the Chair of Council to promote Lewes District as a whole and act as a focal point for the community.
- 4 To lead the Cabinet in its work to develop the policy framework and budget and provide political leadership in the development of policy options, especially the corporate strategy, including the setting of targets.
- 5 To maintain staff commitment and morale through providing clear policy direction, sustainable workloads and good working conditions. To promote the Council as a model employer with a firm commitment to equality of opportunity.
- 6 To have a clear understanding and in depth knowledge of Cabinet Member portfolios, the scope and range of all services and an awareness of all policies.
- 7 To monitor progress towards policy objectives.
- 8 To actively contribute to the development of council policies and services in the particular sphere of work for which the Leader / Deputy Leader is responsible as portfolio holder.
- 9 To make executive decisions that have been delegated to the portfolioholder solely in accordance with the procedure set out in the constitution.
- 10 To consult and communicate with members of all party groups, council officers and key partners as appropriate to ensure decisions are well informed and that Council policies are widely understood and positively promoted.
- 11 To liaise with other bodies / partners at political / policy level and represent the Council's best interests.
- 12 To act as political spokesperson for the Council.
- 13 To have power to grant discretionary rate relief of up to £5,000 to any person/body within guidelines approved by the Cabinet.
- 14 To authorise payment of a sum up to £500 to compensate any person who suffers inconvenience as a result of a failure of a service standard by a

department of the Council (provided that a summary of circumstances in which the payment is made is subsequently reported to the Cabinet).

- 15 To approve bids to external bodies to support a project that is within the Council's approved programme and to which funds have been committed subject to matching funding from external resources.
- 16 The Deputy Leader will be expected to support the Leader in all of the above and to fulfil the role of the Leader as set out above, in the absence of the Leader.

#### **Role Profile of Cabinet Members**

- 1 To provide effective strategic leadership to the Council and ensure that the Council successfully discharges its overall responsibilities for the activities of the organisation as a whole.
- 2 To contribute actively through membership of the Cabinet to the formation of the Council's policies, budget, strategies and service delivery.
- 3 To take responsibility for decision making within the Cabinet on the basis of individual and/or collective responsibility for the portfolio allocated by the Leader.
- 4 Subject to prior consultation with the Leader, to act as the spokesperson for the Council for the portfolio allocated to them.
- 5 To have a clear understanding and in-depth knowledge of his/her portfolio, the scope and range of the relevant services for which he/she is responsible and an awareness of current agreed policies in respect of those services.
- 6 To consult and communicate with members of all party groups, council officers and key partners as appropriate to ensure decisions are well informed and that Council policies are widely understood and positively promoted.
- 7 To assist with the monitoring of policy objectives and service performance against targets and ensure work undertaken offers value for money.
- 8 To make executive decisions that have been delegated to the portfolioholder solely in accordance with the procedure set out in the Constitution.
- 9 To maintain staff commitment and morale through providing clear policy direction, sustainable workloads and good working conditions. To promote the Council as a model employer with a firm commitment to equality of opportunity.
- 10 To liaise with other bodies / parties in the portfolioholder's field of responsibility and to represent the best interests of the Council.
- 11 To support the Leader and the Cabinet generally in accordance with the principles of collective responsibility.
- 12 To undertake work associated with other portfolioholders as required by the Leader and / or Deputy Leader.

### **Role Profile of Chair of Policy & Performance Advisory Committee**

- 1 To chair the Committee and Committee Panels as necessary in accordance with the remit set out in Part and Article of the Constitution and in accordance with the Council's rules and procedures contained in the Constitution.
- 2 To develop and maintain a working knowledge of the practices, procedures, services and functions which fall within the Committee / Panel's terms of reference.
- 3 To contribute actively to the formation and scrutiny of the Council's policies, budget, strategies and service delivery through the work of the Committee and its Panels.
- 4 To establish, in liaison with relevant officers, the Committee's work programme and those officers / members / stakeholders required to attend to support such programme.
- 5 To meet with relevant officers to ensure the receipt of appropriate independent advice to inform effective scrutiny of Cabinet decisions and effective performance management.
- 6 To ensure regular contact with councillors, community representatives and local stakeholders to inform effective examination and interrogation of policies, strategies, budgets and performance.
- 7 To ensure that the work programme of the Committee is managed effectively and that duplication of effort or investigation is avoided between any Committee, Sub-Committee and / or Panel.
- 8 To act as a link between the Committee and the Cabinet portfolioholder whose area of service might be the subject of policy formation and / or performance scrutiny from time to time.
- 9 To be responsible for ensuring and overseeing the assembly and preparation of reports to Cabinet / Council as appropriate in accordance with any timetable required by Cabinet, Council or the Committee itself.

#### **Role Profile of Committee Chairs**

- 1 To chair the committee to which they have been appointed in accordance with the remit set out in Part 11 of the Constitution and in accordance with the Council's rules and procedures contained in the Constitution.
- 2 To develop and maintain a working knowledge of the practices, procedure, services and functions which fall with the committee's terms of reference.
- 3 In liaison with the appropriate senior officers, to contribute to the agenda for Committee meetings.
- 4 To meet regularly with relevant officers to ensure the receipt of appropriate independent advice to inform the committee's activities and decisions.
- 5 To liaise and work with other bodies / partners / stakeholders in the Committee's field of responsibility to promote best practice.