



CHELTENHAM
BOROUGH COUNCIL

CONSTITUTION

INDEX

	Pages
PART 1: SUMMARY AND EXPLANATION	
Summary and Explanation	1 - 4
PART 2: ARTICLES OF THE CONSTITUTION	
Article 1 - The Constitution	5 - 6
Article 2 - Members of the Council	7 - 10
Article 3 - Members of the Public and Council	11 - 12
Article 4 - The Full Council	13 - 14
Article 5 - The Mayor	15 - 16
Article 6 - Overview & Scrutiny	17 - 18
Article 7 - The Cabinet	19 - 20
Article 8 - Regulatory and Other Committees	21 - 22
Article 9 - (Not Used)	23 - 24
Article 10 - Area Committees	25 - 26
Article 11 - Joint Arrangements	27 - 28
Article 12 - Officers	29 - 32
Article 13 - Decision Making	33 - 36
Article 14 - Finance, Contract and Legal Matters	37 - 38
Article 15 - Review and Revision of the Constitution	39 - 40
Article 16 - Construction, Publication and Suspension of the Constitution	41 - 42
Article 17 - Interpretation	43 - 48
PART 3: RESPONSIBILITY FOR FUNCTIONS	
3A Introduction	49 - 50
3B Council Functions	51 - 52
3C Committee Functions	53 - 62

3D Officer Non-Executive Functions	63 - 72
3E Executive Functions	73 - 90
3F Statutory and Proper Officer Appointments	91 - 94
PART 4: RULES OF PROCEDURE	
4A Council Procedure Rules	95 - 118
4B Cabinet Procedure Rules	119 - 136
4C Committee Procedure Rules	137 - 154
4D Overview & Scrutiny Rules	155 - 182
4E Access to Information Rules	183 - 192
4F Employment Rules	193 - 198
4G Budget and Policy Framework Rules	199 - 204
4H Financial Rules	205 - 260
4I Contract Rules	261 - 282
PART 5: CODES AND PROTOCOLS	
5A Code of Members' Conduct	283 - 300
5B Code of Conduct for Employees	301 - 324
5C Protocol for Member / Officer Relations	325 - 334
5D Planning Protocol	335 - 350
5E Licensing Code of Conduct	351 - 370
5F Gifts and Hospitality	371 - 378
5G Guidance for Councillors appointed to represent the Council on Outside Bodies	379 - 388
PART 6: MEMBERS' ALLOWANCE SCHEME	
Members' Allowance Scheme	389 - 396
APPENDICES	
A Motion Flow Chart	397 - 398

B Petition Scheme	399 - 404
C Gateway Protocol	405 - 410
D The Rules relating to the Order of Precedence of Members	411 - 412
E Guidance for the Recording of Council, Cabinet and Committee Meetings	
F A Guide to Recording and Publication of Officer Decisions	413 - 416
G A diagram of the Decision making process	417 - 418
H Member Role Profiles	419 - 434
I Local Government Act 1972 Exempt Information	435 - 436

Part 1: Summary and Explanation

Contents table

1. The Constitution.....	2
2. How the Council Operates.....	2
3. How decisions are made.....	2
4. Overview and Scrutiny.....	3
5. The Council's Staff.....	3
6. Rights of the Public.....	3

1. The Constitution

- 1.1 Cheltenham Borough Council has adopted a Constitution which sets out how the Council operates, how decisions are made and the procedures which are to be followed to ensure that all decisions are made efficiently, transparently and in a way which is accountable to local people. Some of these processes are required by the law, but many are a matter for the Council to choose.
- 1.2 The Constitution includes seventeen Articles which set out the basic rules governing the Authority's business. [Article 17](#) contains definitions used throughout the Constitution. Words defined in [Article 17](#) or elsewhere are generally signified by the use of capital letters.
- 1.3 More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

2. How the Council Operates

- 2.1 The Council is composed of forty Councillors, with two Councillors representing each of the twenty wards.
- 2.2 Councillors are democratically accountable to the residents of their ward, but the overriding duty of Councillors is to the whole community although they have a special duty to their constituents, including those who did not vote for them.
- 2.3 Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Monitoring Officer trains and advises them on the code of conduct.
- 2.4 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 will normally meet once every eight weeks and is required by regulations to approve or adopt certain major strategies and plans. Regular time will be set aside for public questions. At each meeting there will be an opportunity for Councillors to question the Leader and the Cabinet.

3. How decisions are made

- 3.1 The [Cabinet](#) is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader and between three and seven Councillors. The Cabinet publishes a [Forward Plan](#) which identifies the decisions that it intends to take as a collective or as individual Cabinet Members.
- 3.2 Cabinet meetings are generally open for the public to attend except where personal or confidential matters are being discussed.

3.3 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.

4. Overview and Scrutiny

4.1 The Council has one Overview and Scrutiny Committee whose main role is to help to ensure local public services are delivered effectively, efficiently and in the best interests of residents.

4.2 The primary role of scrutiny is to hold the Cabinet to account and to help improve local services by:

- Reviewing and challenging decisions taken by the Cabinet
- Undertaking inquiries into services or policy areas which are of interest to the people of Cheltenham
- Making evidence based recommendations to improve services provided by the Council

4.3 The Overview and Scrutiny Committee can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables the Overview and Scrutiny Committee to consider whether the proper procedure leading to the decision has been followed and they may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

5. The Council's Staff

5.1 The Council has officers working for it 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. The Member/Officer protocol governs the relationships between officers and members of the Council.

6. Rights of the Public

6.1 Members of the public have a number of rights in their dealings with the Council. These are set out in detail in [Article 3](#). Some of these are legal rights, whilst others depend on the Council's own processes.

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

6.3 Members of the public have the right to:

- vote at local elections if they are registered as a borough elector
- contact their local Councillor about any matters of concern to them



- obtain a copy of the Constitution
- attend meetings of the Council, Cabinet and Committees except where, for example, personal or confidential matters are being discussed
- petition to request a referendum on a mayoral form of Cabinet
- ask questions at Council and Committee meetings and, when invited, to assist investigations by the Overview and Scrutiny committees
- find out from the Cabinet's Forward Plan what decisions are to be discussed by the Cabinet or decided by the Cabinet, Cabinet Members or officers
- see most reports and background papers and any record of decisions made by the Council and Cabinet
- complain to the Council using the Council's complaints procedures
- complain to the local Ombudsman if they think the Council has not followed its procedures properly, but generally only 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

6.3 The Council welcomes participation by the public in its work. For further information about public participation is available on the [Get Involved](#) page of our website.

Article 1 – The Constitution

1.1 Powers of Cheltenham Borough Council

Cheltenham Borough Council (referred to in the Constitution as the Authority) will exercise all its powers and duties in accordance with the law and this Constitution.

1.2 The Constitution

This Constitution, including all its appendices, is the Constitution of the Authority

1.3 Purpose of the Constitution

The Constitution:

- (a) enables the Authority to provide clear leadership to the community in partnership with members of the public, businesses and other organisations;
- (b) supports the active involvement of members of the public in the process of local authority decision-making;
- (c) helps Councillors represent their constituents more effectively;
- (d) enables decisions to be taken efficiently and effectively and whenever possible, in public;
- (e) creates a powerful and effective means of holding decision makers to public account;
- (f) ensures that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensures that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- (h) ensures that there is open and accountable decision making based on the principles of open government and access to information;
- (j) provides a means of improving the delivery of services to the community;
and
- (k) provides an up-to-date point of reference for access to all the operating rules of the Authority.



1.4 Interpretation and Review of the Constitution

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

Article 2 – Members of the Council

2.1 Composition and Eligibility

2.1.1 Composition

The Authority comprises 40 Members representing 20 wards, with two Councillors representing each ward.

2.1.2 Eligibility

Subject to the qualifications and disqualifications set out in the Local Government Act 1972 only registered voters of the Borough of Cheltenham or those living or working or holding property in the Borough are eligible to hold the office of Councillor.

Certain Employees of the Authority and others are prohibited from holding such office.

2.2 Election and Term of Office

Each Councillor holds office for four years and, unless they are elected at a by-election, the term of office starts on the fourth day after the day of the Borough elections at which they are elected and finishes on the fourth day after the Borough elections four years later.

The Authority holds biennial elections with half the Authority (i.e. one Councillor for each ward) retiring but, subject to their continuing eligibility, they are able to seek re-election¹.

2.3 Roles and Functions of Councillors

2.3.1 Key Roles

The key roles of Councillors are to:

- (a) undertake functions as Members of Cabinet, Committees and Working Groups if appointed to do so by the Leader;
- (b) contribute to policy formation;
- (c) engage with and represent their communities whose views they will bring into the Authority's decision-making processes;
- (d) facilitate an understanding of the role and functions of the Authority within the community;
- (e) represent the Authority on outside bodies, if so appointed;
- (f) contribute to the good governance of the area and actively encourage community participation and public involvement in decision making;
- (g) maintain the highest standards of conduct and ethics.

¹ In 2024 the Council will hold all out elections as a result of boundary changes. It will revert to bi-annual elections with effect from 2026



2.3.2 Rights and Duties

- (a) Councillors will have those rights of access to documents, information, land and buildings of the Authority which are necessary for the proper discharge of their functions and in accordance with the law.
- (b) Councillors will not make public any Confidential or Exempt Information without the consent of the Authority or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.
- (c) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules found at [Part 4E](#) of the Constitution.

2.4 Conduct

Councillors shall at all times observe the Code of Members' Conduct, the Protocol on Member/Employee Relations, the Protocol on Gifts and Hospitality, the Planning Code of Conduct and the Licensing Code of Conduct, all as set out in [Part 5](#) of this Constitution, and such other codes or protocols as the Authority may from time to time adopt.

2.5 Allowances

Councillors are entitled to receive allowances in accordance with the Members' Allowance Scheme set out in [Part 6](#) of this Constitution.

2.6 Notice of Meetings

When the Proper Officer is giving notice to the public of the time and place of any Meeting in accordance with the Access to Information Rules, he/she shall as soon as practicable send a summons to the Meeting to every Member entitled to receive it and to the relevant substitute Members appointed by the Council. The summons will give the date, time and place of the Meeting and specify the business to be transacted and will be accompanied by such reports as are available.

Papers for meetings will be sent to Members at the address or the last address of which the Member has given notice in writing to the Proper Officer.

The Access to Information Rules deal with other Members' entitlement to receive papers for Meetings.

2.7 Information to Members

It shall normally be sufficient for the purposes of keeping Members informed as to the business of the Authority, or on related matters, if the information is circulated to Members in the normal course of post or delivery or by e-mail.



2.8 Access to Works and Premises

Unless specifically authorised to do so by the Council, the Cabinet or a Committee, a Member may not issue any order respecting any works which are being carried out by or on behalf of the Authority or claim by virtue of their membership of the Authority any right to inspect or enter upon lands or premises or works which the Authority, or an employee duly authorised for the purpose, has the power or duty to inspect or enter.

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Article 3 – Members of the Public and the Council

3.1 Rights of Members of the Public

Members of the public have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in [Part 4E](#) of this Constitution:

3.1.1 Referendum

Members of the public on the electoral roll for the Borough have the right to vote and sign a petition to request a referendum for an elected Mayor form of Constitution.

No more than one referendum can, however, be held in any five year period and Cheltenham last held a referendum on the 28th June 2001.

3.1.2 Information

Members of the public have the right:

- (a) to attend meetings of the Council and its committees except where confidential or exempt information is likely to be discussed and that part of the meeting is therefore held in private;
- (b) to attend meetings of the Cabinet *except as in (a) above*;
- (c) to find out from the Forward Plan what Key Decisions will be taken by the Cabinet and when;
- (d) to see agendas, reports and background papers and the minutes and other records of decisions made by the Council, the Cabinet and all other Committees and sub-Committees except where the law permits or requires the withholding of such information;
- (e) to inspect the Authority's accounts and make their views known to the external auditor;
- (f) to disclosure of information under the Freedom of Information Act 2000, subject to certain exemptions and exceptions.

3.1.3 Public Participation

Questions

Subject to the relevant rules of procedure set out in [Part 4](#) of the Constitution members of the public may ask questions at Council Meetings, Cabinet Meetings and Committee Meetings and, when invited, to assist investigations by Overview and Scrutiny Committees. The public may, in certain circumstances and in accordance with the rules of procedure in [Part 4](#) also participate at the Planning Committee.



Petitions

Any person who lives, works or studies in the district may petition the Council or the Cabinet about any matter which causes concern to them and affects the Borough.

Whenever the Council receives a petition, the Mayor shall determine to whom the petition is to be passed. Whenever the Cabinet receives a petition, the Leader shall determine to whom the petition is to be passed. That person or body shall ensure that a detailed response is sent to the organiser or presenter of the petition.

Details of the petition scheme are set out in [Appendix B](#).

3.1.4 Complaints

The Authority operates an internal complaints procedure. Complaints may be made to:

- (a) the Local Ombudsman, normally after first using the Authority's own complaints scheme;
- (b) the Council's Audit, Governance and Compliance Committee about an alleged breach of the Members' Code of Conduct.
- (c) the Information Commissioner about the Council's handling of a Freedom of Information Act Request.
- (d) the Information Commissioner about the Council's handling of a Personal Data Protection Request.
- (e) Council has responsibility for Personal Data.

3.2 Responsibilities of Members of the Public

Members of the public must not be violent, abusive or threatening to Councillors or Officers and must not wilfully harm things owned by the Authority, Councillors or Employees.

Members of the public must not create a disturbance when attending any Meeting.

Article 4 – The Council

4.1 Composition

The Council comprises 40 Members meeting as a body (or as many of those Councillors who are in office at the time concerned).

4.2 Functions of the Council

The functions that can only be exercised by the Council are set out in [Part 3B](#) Table 1 of the Constitution.

4.3 Council Meetings

There are four types of meeting of the Council:

- (a) the Annual Meeting;
- (b) the Annual and Selection Meeting;
- (c) Ordinary Meetings, and
- (d) Extraordinary Meetings;

and they will be conducted in accordance with the Procedure Rules in [Part 4A](#) of this Constitution.

4.4 State of Cheltenham Debate

The Leader may, and shall if the Council so resolves, call a State of Cheltenham debate on such date and in such form as shall be agreed with the Mayor.

The form of the debate shall be such as to enable the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the State of Cheltenham debate.

The debate will be chaired by the Mayor.

The results of the debate will be:

- (a) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (b) where appropriate, considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year.

4.5 Meanings

- (a) ‘Policy Framework’ currently comprises of the following plans and strategies:

- (i) Corporate Plan;
- (ii) Community Safety Strategy;
- (iii) Plans and strategies which together comprise the Development Plan
- (iv) Housing Strategy
- (v) Licensing Policy Statements (Licensing Act 2003 and Gambling Act 2005)

Note: The names and descriptions of the above policies/strategies etc. may be subject to change from time to time.

- (b) 'Budget' The budget includes the allocation of financial resources to different services and projects, the Medium Term Financial Plan/Strategy, proposed contingency funds, setting the Council Tax, decisions relating to the control of the Council's borrowing requirements, the Capital Strategy, the control of capital expenditure and the setting of virement limits.

Note: The Council will receive recommendations from the Cabinet in relation to the Policy Framework and Budget matters identified above.

Article 5 – The Mayor

5.1 Election of Mayor and Appointment of Deputy Mayor

The Council will elect the Mayor and appoint the Deputy Mayor at the Annual Council, Annual Selection Meeting and at other times if either office falls vacant. The appointment is for one municipal year.

5.2 Role and Function of the Mayor

The Mayor, and in their absence the Deputy Mayor, shall have the following responsibilities:

- (a) to undertake the role of Chair of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (b) to uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary;
- (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors can, subject to procedural requirements, discuss matters of importance to the Authority;
- (d) to chair the “State of Cheltenham debate”;
- (e) to promote public involvement in the Authority’s activities;
- (f) to represent the Authority on such civic and ceremonial functions and on such other occasions as the Council and they determine are appropriate.

5.3 Selection of the Mayor

In order to assist the Council in selecting a Mayor, the Chief Executive will maintain a list of all Councillors, to be known as the “Order of Precedence”, showing:

- (a) their total service to the Authority if they have not previously served the Borough as its Mayor; and
- (b) their period of service on the Authority since they last served the Borough as its Mayor
- (c) and will, for Members’ information, submit that list to the Council at its first meeting in the calendar year.

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Article 6 – Overview and Scrutiny Committee

6.1 General Role

The Council will appoint the Overview and Scrutiny Committee whose general role is to deliver measurable outcomes which benefit the effectiveness of the Authority and the community.

Within its terms of reference, Overview and Scrutiny committee will:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Authority's functions;
- (b) make reports and/or recommendations to Council and/or the Cabinet and/or any Committee in connection with the discharge of any functions;
- (c) consider any matter affecting the Borough or its inhabitants including Councillor Calls for Action;
- (d) exercise the right to call-in for reconsideration, Executive decisions, which have been made but not yet implemented.

Cabinet Members may not be Members of the Overview and Scrutiny Committee

6.2 Specific Functions

The Terms of Reference of the Overview and Scrutiny Committee are contained in [Part 3C](#) Table 2.

6.3 Proceedings of Overview and Scrutiny Committees

The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Rules set out in [Part 4D](#) of this Constitution.

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Article 7 – The Cabinet

7.1 Role

The Cabinet will carry out all of the Authority's functions as set out in [Part 3E](#) of the Constitution.

7.2 Form and Composition

Cabinet will consist of the Leader together with at least two, but not more than nine, Councillors appointed to Cabinet by the Leader of the Council.

7.3 Leader

The term of office of the Leader will start on the day of their election as Leader and end on the day of the Selection meeting in 4 years' time unless:

- (a) they resign from the office; or
- (b) they are no longer a Councillor ; or
- (c) they are removed from office by resolution of the Council provided that notice of any motion which would have the effect of removing them from office is delivered in writing to the Proper Officer 10 clear working days before the relevant Council meeting signed by at least 10 Members.

If the Council passes a resolution to remove the Leader, a new Leader shall be appointed at the meeting at which the Leader is removed from office or at a subsequent meeting

7.4 Other Executive Members (Cabinet Members)

Only Councillors may be appointed to the Cabinet. There may be no Co-optees or Substitutes for Cabinet Members. Neither the Mayor nor Deputy Mayor may be appointed to Cabinet or as Leader. Cabinet Members (including the Leader) may not be Members of an Overview and Scrutiny Committee.

Cabinet Members shall hold office until:

- (a) they resign from office; or
- (b) they are no longer Councillors; or
- (c) they are removed from office by the Leader who must give written notice of any removal to the Chief Executive, (such removal to have immediate effect), and may then appoint a replacement.

7.5 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in [Part 4B](#) of this Constitution.



7.6 Responsibility for functions

The Leader will maintain in [Part 3](#) of this Constitution details setting out which Cabinet Members, 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 listed below to discharge the functions set out in [Part 3](#) of this Constitution ('Responsibility for Functions' – [Part 3E](#) 'General Scheme of Delegation of Executive Functions').

- The Planning Committee
- The Licensing Committee
- The Audit, Compliance and Governance Committee
- The Appointments and Remuneration Committee
- The Appeals Committee
- The Disciplinary Committee

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Article 9 –Not Used

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Article 10 – Area Committees

The Authority does not currently have Area Committees.

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Article 11 – Joint Arrangements

11.1 Arrangements to Promote Well-Being

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

- (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) 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) 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 Authority.
- (d) The Cabinet may appoint from outside the Cabinet Members to a Joint Committee where 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 representing a ward which is wholly or partly contained within the area concerned - 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 Responsibilities for Functions set out in [Part 3C](#) of this Constitution.

11.3 Access to Information

The Access to Information Rules in [Part 4E](#) of this Constitution apply to a Joint Committee.

11.4 Delegations to and from other Local Authorities

- (a) The Council may delegate non-Executive Functions to another local authority or, in certain circumstances, to the Executive of another local authority.
- (b) The Cabinet may delegate Executive Functions to another local authority or to the Executive of another local authority in certain circumstances.

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Article 12 – Officers

12.1 Organisational Structure

(a) General

The Authority may engage such Officers as it considers necessary to carry out its functions.

(b) Head of Paid Service, Monitoring Officer and Chief Finance Officer (Section 151 Officer)

The Council has designated the following statutory posts as shown:

Designation	Person Appointed
Head of Paid Service	Chief Executive
Monitoring Officer	Director of Governance, Housing and Communities
Section 151 Officer	Deputy Chief Executive

In the Council the statutory roles are held by different officers of the Council.

Such posts include the functions set out below.

(c) Structure

The Head of Paid Service will prepare and publicise a description of the overall structure of the Authority showing the management structure and services provided. The current Management Structure of the Council is appended to this Article.

(d) Delegation

The functions delegated to Officers are set out in [Part 3E](#) of this Constitution (Officer Delegation Scheme).

12.2 Functions of the Head of Paid Service

12.2.1 Discharge of functions by the Authority

The Head of Paid Service will report to the Council on the overall manner in which the discharge of the Authority's functions is co-ordinated and organised, including the organisation and grades of Chief Officers.

12.2.2 Advising whether Executive Decisions are within the Budget and the Policy Framework

In relation to policy related matters, the Head of Paid Service will advise whether executive decisions are in accordance with the Budget and the Policy Framework.

12.2.3 Call-in

The Head of Paid Service will determine if a call-in request falls within Article 13.2.

12.2.4 Restrictions on functions

The Head of Paid Service may not be the Monitoring Officer.

12.3 Functions of the Monitoring Officer

12.3.1 Updating the Constitution

The Monitoring Officer will, as appropriate, advise Council on amendments to the Constitution normally through the Constitution Working Group which has the role of making recommendations to the Council on it. They may also make such amendments to the Constitution as are necessary to take account of any decisions of Full Council, a Committee, the Cabinet or the Leader and changes of law or fact, and shall notify Councillors, the Head of Paid Service and such other Officers as they consider appropriate of any such changes.

12.3.2 Ensuring lawfulness and fairness of decision making

After consulting with the Head of Paid Service and the Section 151 Officer, the Monitoring Officer will report to the Council (or to the Cabinet in relation to an Executive Function) if they 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.

12.3.3 Supporting the Audit, Governance and Compliance Committee

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

12.3.4 Dealing with allegations of Breach of Code of Members' Conduct

The Monitoring Officer deals with all written complaints about breaches by Borough Councillors or any Parish Councillor within the Council's administrative area, of the Code of Members' Conduct. The Monitoring Officer will seek local resolution to any complaints where this is possible or will determine complaints

in accordance with the authority delegated by the Council in [Part 3D](#) of this Constitution.

12.3.5 Restrictions on posts

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

12.4 Functions of the Chief Finance Officer (Section 151 Officer)

12.4.1 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 Council, or to the Cabinet in relation to an Executive Function, and the Council's external auditor if they consider 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.

12.4.2 Administration of financial affairs

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council and will ensure that an adequate and effective internal audit system is maintained.

12.4.3 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.

12.4.4 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 Employees in their respective roles.

12.4.5 Give financial information

The Section 151 Officer will provide financial information to the media, members of the public and the community.

12.4.6 Advising whether Executive Decisions are within the Budget and the Policy Framework

In relation to financial matters, the Chief Finance Officer will advise whether Executive decisions are in accordance with the Budget and Policy Framework.

12.4.7 Restriction on posts

The Chief Finance Officer cannot be the Monitoring Officer.

12.5 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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

12.6 Conduct

Employees will comply with the Code of Conduct for Employees and the Protocol on Member/Employee relations set out in [Part 5B](#) of this Constitution.

12.7 Employment

The recruitment, selection and dismissal of officers will comply with the Employment Rules set out in [Part 4F](#) of this Constitution.

Article 13 – Decision Making

13.1 Responsibility for Decision Making

The Functions allocated to Council, Committees, Cabinet, Cabinet Members, Officers, Joint Arrangements and other local authorities are set out in Part 3 of this Constitution.

13.2 Principles of Decision Making

All decisions of the Authority made by the bodies or persons in Rule 13.1 shall be made in accordance with the following principles:

- (a) the decision must be lawful and in accordance with all applicable statutory and regulatory requirements and this Constitution;
- (b) the decision shall be proportionate to the desired outcome;
- (c) the decision shall comply with the Budget and Policy Framework Rules;
- (d) the decision should be taken following due consultation and on the taking of professional advice from Officers;
- (e) there shall be respect for human rights;
- (f) there shall be a presumption in favour of openness;
- (g) there shall be clarity of aims and desired outcomes;
- (h) due consideration shall be given to all objections; and
- (i) the options considered and the reasons for the decision shall be clearly set out.

13.3 Specific Types of Decision Making

(a) Decisions reserved to Council

Decisions relating to the functions listed in Table 1 of Part 3B of the Constitution shall be taken by Council unless lawfully delegated to a Committee or an Officer.

(b) Key Decisions (*Executive Functions only*)

A Key Decision means any decision in exercise of an Executive Function which is likely:-

- (i) to result in the Authority incurring **expenditure** which is, or the making of **savings** which are, **significant** having regard to the Authority's budget for the service or function to which the decision relates; or



- (ii) to be significant in terms of its effects on communities living or working in an area comprising **two or more wards** in the Authority's area

The Authority has agreed the following local definition of Key Decision–

A Key Decision is a decision made in exercise of an executive function which:-

- requires a budget expenditure or budget saving of £100,000 or more;
- relates to the acquisition or disposal of land or an interest in land with a value in excess of £500,000; or
- is likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Borough

Additionally (in accordance with Section 38 of the Local Government Act 2000) in determining the meaning of "**significant**" for these purposes regard shall be had to any guidance issued by the Secretary of State.

(c) Significant Decisions (*non-Executive Functions only*)

A Significant Decision means any decision in exercise of a non-Executive Function which:-

- requires a budget expenditure or budget saving of £100,000 or more; or
- is likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Borough

(d) Urgent Decisions

An urgent decision means a decision made in circumstances where:-

- (a) a decision is required by statute or otherwise within a specified timescale; or
- (b) any delay likely to be caused by not making the decision would seriously prejudice the Authority's or the public's interests; or
- (c) any delay likely to be caused by not making the decision would be likely to expose the Authority, its members or its constituents to a significant level of risk, loss, damage or disadvantage.

13.4 Decision Making by Council

Subject to Article 13.8, Council meetings will follow the Council Procedure Rules set out in [Part 4A](#) of this Constitution when considering any matter.

13.5 Decision Making by Cabinet

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



13.6 Decision Making by Overview and Scrutiny Committee

Overview and Scrutiny Committee will follow the Overview and Scrutiny Rules set out in [Part 4D](#) 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, all Committees and Sub-Committees established by Council will follow those parts of the Procedure Rules set out in [Part 4C](#) of this Constitution as apply to them when considering any matter.

13.8 Decision Making by Council Bodies Acting as Tribunals

Council, Cabinet, a Cabinet Member, a Committee or an Officer acting as a tribunal or in a quasi-judicial manner or as a Regulatory Committee or determining and/or 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 hearing contained in Article 6 of the European Convention on Human Rights.

13.9 Decision Making by Officers

When making decisions within the powers delegated to them under Part 3 of the Constitution, Officers will ensure that the financial implications or expenditure resulting from the exercise of that delegation does not exceed the limit of their authorised level of expenditure.

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Article 14 – Finance Contracts and Legal Matters

14.1 Financial Management

The management of the Authority's financial affairs will be conducted in accordance with the Budget and Policy Framework Rules and the Financial Rules set out in [Part 4G](#) and [Part 4H](#) of this Constitution.

14.2 Contracts

14.2.1 Every contract made by the Authority will comply with the Contract Rules set out in [Part 4I](#) of this Constitution.

14.2.2 Contracts shall be executed as follows;

- All Contracts with a value exceeding £50,000 shall be executed as a deed and the common seal (see below) shall be affixed unless the Director of One Legal considers it more expedient to sign the contract.
- All Contracts with a value exceeding £25,000 but not exceeding £50,000 shall be signed by the Director of One Legal unless the Director of One Legal requires that the contract be sealed.
- All Contracts not exceeding £25,000 that require execution shall be signed by any of the Chief Executive, Director, Director of One Legal or budget holder (subject to individual approved limit) unless the Director of One Legal requires that the contract be sealed.

14.3 Legal Proceedings

14.3.1 The Director of One Legal is authorised subject to 14.3.2 below to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Authority (Council, Cabinet, Committee, Joint Arrangements or Officer) or in any case where the Director of One Legal considers that such action is necessary to protect the Council's interests and they are satisfied as to the available evidence.

14.3.2 This authority may only be exercised within the financial limit which is authorised by the decision or is within the authorised expenditure limit of the Director of One Legal.

14.4 Authentication of Documents

14.4.1 Subject to Article 14.4.2 below,

- where any document is necessary to any legal procedure or proceedings on behalf of the Authority, or

- where any legal document (not falling within article 14.3) is required to be signed (unless the Director of One Legal requires it to be sealed) it will be signed by the Director of One Legal or Chief Executive or any other person authorised by them, unless any enactment otherwise authorises or requires or the Authority has given requisite authority to some other person.

14.4.2 A decision of a person or body in respect of a Function allocated to them under Part 3 of the Constitution will be sufficient approval for signing any document necessary to give effect to that decision.

14.5 Common Seal of the Authority

14.5.1 The common seal of the Authority will be affixed to those documents which in the opinion of the Director of One Legal should be sealed.

14.5.2 A decision of a person or body in respect of a Function allocated to them under Part 3 of the Constitution will be sufficient approval for sealing any document necessary to give effect to that decision.

14.5.3 The common seal will be kept in a safe place in the custody of the Director of One Legal

14.5.4 The affixing of the common seal must be attested by any of: the Director of One Legal, the Chief Executive, Director, the Mayor, or the Deputy Mayor.

14.5.5 The electronic fixture of the common seal is permitted in accordance with the terms set out in this Constitution

14.6 Electronic Signatures

Electronic Signatures are permitted in accordance with the terms set out in this Constitution.

Article 15 – Review and Revision of the Constitution

15.1 Duty to Monitor and Review the Constitution

The Constitution Working Group will meet at least once a year to monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Monitoring Officer and Democratic Services Team Leader will assist the Working Group in carrying out this task. Any recommendations for change shall be dealt with in accordance with 15.3 below.

15.2 Protocol for Monitoring Officer and Review of Constitution by Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in [Article 1](#).

In undertaking this task the Monitoring Officer may arrange for themselves or any other officer to, amongst other actions:

- (a) observe meetings of different parts of the Member and Employee structure;
- (b) undertake an audit of a sample of decisions;
- (c) record and analyse issues raised with him/her by Members, Employees, the public and other relevant stakeholders; and
- (d) compare practices in this Authority with those in other comparable authorities or national examples of best practice.

15.3 Changes to the Constitution

Changes to Parts 1 to 5 of the Constitution will, insofar as they are a matter for the Council to decide, only be approved by the Council after consideration of a report from the Constitution Working Group or the Monitoring Officer has been given the opportunity of making such a report and has declined to do so, in which case that fact shall be recorded in the minutes of the Meeting at which the decision to amend the Constitution was taken.

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Article 16 – Construction Publication and Suspension of the Constitution

16.1 Construction

The ruling of the Mayor as to the construction or application of the Constitution, or as to any proceedings of the Council, shall not be challenged at any Meeting of the Council. The Mayor must be guided in his/her interpretation by the purposes of the Constitution set out in Article 1 and by the Monitoring Officer.

16.2 Publication

- (a) The Chief Executive will ensure that each Councillor is made aware of where they can view a copy of the Council’s Constitution upon delivery to them of their declaration of acceptance of office on the Councillor being elected to the Council.
- (b) The Chief Executive will ensure that copies are available for inspection at council offices, libraries 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 Chief Executive will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

16.3 Suspension of the Constitution

16.3.1 Limit to suspension

The Articles of this Constitution may not be suspended other than [Article 12](#) (Employees) to the extent that may be necessary for the purposes of making temporary arrangements in relation to the duties and functions of Employees.

16.3.2 Rules capable of suspension

The rules contained in [Part 4](#) (save for the exceptions listed below) may be suspended by the Council but only to the extent permitted by law and after the advice of the Monitoring Officer or Borough Solicitor has been obtained. The exceptions are:

Procedure Part 4A rule 9	Notices of Motions
Procedure Part 4C rule 15	Members' entitlement to have their votes recorded
Procedure Part 4D rule 26	Prevention of Disorderly Conduct
Part 4F	Employment Rules
Part 4H	Financial Rules



16.3.3 Procedure to suspend

A motion to suspend can only be made by the Council and cannot be moved without notice unless at least one half of the whole number of Members entitled to be present are present. The extent and duration of suspension must be proportionate to the result to be achieved, taking account of the purposes of the Constitution as set out in [Article 1](#) and shall only be for so long as is necessary to transact the particular item of business necessitating the suspension.

Article 17 – Interpretation

The Interpretation Act 1978 shall apply to the interpretation of this Constitution as it applies to the interpretation of an Act of Parliament.

In this Constitution, unless the context otherwise admits, the following terms have the meaning assigned to them:

Access to Information Rules	means the rules set out in Part 4E of this Constitution
Appropriate	in relation to: a Committee shall mean the Committee or Sub-Committee with responsibility for the function of the Council to which a particular matter, proposal or Contract relates and includes an Overview and Scrutiny Committee and Appropriate Committee Chair shall be construed accordingly; a Cabinet Member shall mean the Cabinet Member who has responsibility for the function or matter under consideration; an Officer shall mean the Officer who has responsibility for the function or matter under consideration
Article	means an Article in Part 2 of this Constitution
Authority	means Cheltenham Borough Council
Borough Solicitor	means the Director of the shared legal service (known as 'One Legal')
Budget	has the meaning set out in Article 4.5
Cabinet	means the Executive for the purposes of Section 11(3) of the Local Government Act 2000 and includes the Leader of the Council and the Cabinet Members appointed by the Leader
Cabinet Member	means any member of the Cabinet and may include the Leader
Cabinet Rule	means one of the rules set out in Part 4B of this Constitution
Chair	means the Chair of the Appropriate Committee or in their absence the Vice-Chair, and Vice-Chair and is to be construed accordingly
Chief Executive	means the Officer designated as the Authority's Head of Paid Service
Chief Finance Officer	means the Section 151 Officer
Committee	means a Committee or a Sub-Committee of the Council appointed under Section 101 of the Local Government Act 1972 or, where appropriate, Section 21 of the Local Government Act 2000 (Overview and Scrutiny Committees)
Confidential Information	means confidential information as defined by Section 100A of the Local Government Act 1972 (reproduced in the Access to Information Rules at Part 4E of this Constitution)

Contract	means a transaction entered into by the Authority whereby a person or body or Direct Service acting as a Contractor will for consideration undertake work, provide services or provide goods or materials, or for the disposal of goods other than contracts for the employment of Employees; or for the acquisition or disposal of land or interest in land, but does not include the appointment of counsel. Any reference to a Contract of a particular value shall mean a single transaction or a series of transactions which in aggregate amount to that value
Contractor	means any person or body or Direct Service selected by the Authority to perform a Contract
Council or Full Council	means the elected Members of the Authority acting collectively
Council Chair	means the Member elected as Chair by the Council under the Council Procedure Rules and includes the civic office of Mayor of Cheltenham
Council Vice-Chair	means the Member elected as Vice-Chair by the Council under the Council Procedure Rules and includes the civic office of Deputy Mayor of Cheltenham
Councillor	means an elected Member of the Authority
Deputy Chief Executive/Deputy Head of Paid Service	means the Officer so designated
Deputy Chief Officer	means a Director but excluding the Monitoring Officer and Section 151 Officer
Deputy Leader	means the Cabinet Member so designated by the Leader from time to time
Deputy Mayor	means the Member elected as Council Vice-Chair and to the civic office of Deputy Mayor of Cheltenham
Director	means an Officer so designated
Direct Service	means any Employee or group of Employees who asks or is invited to put in a tender or quotation for the performance of a Contract
Disciplinary Action	means any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the Authority be recorded on the Employee's personal file and includes any proposal for dismissal of an Employee for any reason other than redundancy or permanent ill-health or infirmity of mind or body, but does not include failure to renew a Contract of employment for a fixed term unless the Authority has undertaken to renew such a Contract
Employee	means any employee of the Authority

EU	means European Union and "EU threshold" means the minimum value of a Contract above which the EU's Public Procurement Directives apply
Executive	means any part of the Authority when discharging the functions that are the responsibility of the Leader and/or Cabinet
Executive Functions	means all the functions and duties of the Authority other than those reserved to the Council or delegated by the Council to an Appropriate Committee or to an Officer
Exempt Information	means exempt information as defined by Section 100A of the Local Government Act 1972 (reproduced in the Access to Information Rules at Part 4E of the Constitution);
Forward Plan	means the rolling plan produced in respect of proposed Executive decisions
Goods	includes materials, plant and equipment of any sort
Group Leader	means the leader of a Political Group as defined in the Local Government (Committees etc.) Regulations 1990 or his/her deputy or other person appointed by the Group Leader to represent them in relation to any matter
Head of Law	means the Director of One Legal
Head of Paid Service	means the person so designated under section 4 of the Local Government and Housing Act 1989
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
Key Decision	means a decision by the Executive as defined in Article 13
Land	includes any legal or equitable interest in land
the Leader	means the Member of the Council appointed as Leader of the Executive for the purposes of Section 11(3)(a) of the Local Government Act, otherwise known as the Leader of the Council or in the event of his/her inability to act, due to absence, conflict of interest or otherwise, the Deputy Leader or someone authorised in writing by the Leader
Lead Member	means a Cabinet Member acting in a portfolio
Majority Group	means a Political Group to which belongs either (a) More than half of the members of the Council; or

	(b) Exactly half of the members of the Council, including the Mayor
Mayor	means the Member elected as Council Chair and to the civic office of Mayor of Cheltenham
Meeting	means a meeting of the Council, a Committee or a Sub-Committee or of the Cabinet or a Committee of the Cabinet, as the case may be
Member	means, in relation to the Council, a Councillor and, in relation to the Cabinet, a Cabinet Member, and in relation to any Committee a member of that Committee, whether or not entitled to vote; but shall not include any person who is a member of the Council only by virtue of Section 3(3) or Section 5(2) of the Local Government Act 1972 (Council Chair and Council Vice-Chair to remain members until replaced)
Monitoring Officer	means the Officer designated under Section 5(1) of the Local Government and Housing Act 1989 and, where appropriate, any person authorised by them to act as a Deputy Monitoring Officer
Month	means a calendar month
Municipal Year	means the period between one Annual Council Meeting and the next following Annual Council Meeting
Number of Members	means, in relation to the Council, the number of persons who may act at the time in question as members of the Council, and in relation to a Committee, the number of persons who may act at the time in question as voting members of that body
Officer	means an Employee, a member of staff or someone seconded to the Authority
Ordinary Meeting	means, in relation to the Council, a meeting the date of which has been fixed by the Council before or at the start of the new Municipal Year under the Council Procedure Rules, including any such meeting which is rearranged for a date other than that originally set
Overview and Scrutiny Committee	means any Committee which the Council appoints as an Overview and Scrutiny Committee for the purposes of Section 21 of the Local Government 2000 and includes a Sub-Committee
Person	in relation to the Contracts Rules includes a body, firm, company, corporation and, where appropriate, Direct Services
Person Presiding	means the Member elected to take the chair at Council or Committee at which the Chair and Vice-Chair are absent or unable to act
Planning Committee	means the Committee, by whatever name known, that discharges the Council's development control functions (including the determination of applications for planning permission, listed building consent and similar

	permissions and consents) when acting in that capacity
Political Group	means a political group as defined in the Local Government (Committees etc.) Regulations 1990 as amended
Political Proportionality	means balanced in proportion to the strengths of the Political Groups on the Council, according to law
Policy Framework	has the meaning set out in Article 4
Proper Officer	means, for the purposes of this Constitution, an Officer as set out in Part 3F
Procedure Rule	means a rule set out in Part 4 of this Constitution;
Quotation	includes an offer
Remuneration	means salary received by the employee or executive for duties undertaken during his/her employment
Regulatory Committee	means the Planning Committee and any Committee that discharges the Council's functions to determine applications for licences, certificates, registrations and similar consents, when acting in that capacity
Sale	includes any form of disposal and vice versa
Section 151 Officer	means the Officer designated by the Council for the purposes of Section 151 of the Local Government Act 1972 to administer the financial affairs of the Authority
Service Manager	means an Officer so designated
Services	includes the giving of advice and the supply of professional technical assistance
Significant Decision	means a non-Executive decision as defined in Article 13
Solicitor to the Council	means the Director of One Legal
Sub-Committee	means a sub-committee of a Committee
Supervising Officer	means the relevant Executive Director or Director or any other person nominated by him/her in writing who has the responsibility for a particular Contract
Supply	includes provision
Variation	means <ul style="list-style-type: none"> (a) the material alteration or modification of the design, quality or quantity of works, Goods or Services provided under a Contract; or (b) the material alteration, omission or substitution of any such works, Goods or Services

Unless the context otherwise requires, where provision is made in the Constitution for the calling of meetings, submitting matters for inclusion in agendas, call-in or similar procedural matters relating to meetings:

day	means a calendar day
working day	means a calendar day but excluding Saturdays, Sundays and Bank Holidays

clear days	means a period of time prior to the meeting or procedural event excluding both the day on which public notice is given of the meeting or procedural event and the day of the meeting or procedural event
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Where there is a requirement to give a day or several days or clear days or working days notice of any kind before a meeting, the whole of the day on which the meeting is held is to be ignored.

Any reference in the Constitution to legislation shall be construed as a reference to any legislation that replaces or amends it.

In respect of any function of the Authority, should the function of an Officer as shown in the Constitution no longer rest with that Officer due to a structural re-organisation, change in officer responsibilities, staff departure, commissioning exercise or other reason, that function shall be exercisable by the Chief Executive, a Director or an Officer who has, or has assumed, the role of Appropriate Officer for that function.

PART 3

Responsibilities for Functions

Part 3A - Introduction

INTRODUCTION

- 3A.1 The Authority consists of a number of distinct elements which are each allocated certain functions. The most important elements are Council (all councillors), Committees (undertaking specific functions delegated by Council/specified in statute) and the Executive (Leader and Cabinet). These are the primary decision making bodies within the Authority and they exercise different powers and functions. To assist the efficient working of the Authority these bodies have delegated some of their functions to other parts of the Authority including Sub-Committees and Officers¹.
- 3A.2 This Part 3 of the Constitution describes the way in which the Authority's powers and functions are distributed amongst the various parts of the Authority and who may lawfully exercise those powers within any limits or in accordance with any conditions.
- 3A.3 The law² provides a framework under which functions:
- (a) must be the responsibility of the Executive
 - (b) must not be the responsibility of the Executive
 - (c) may or may not be the responsibility of the Executive
 - (d) must be exercised by Full Council
- 3A.4 Functions which are the responsibility of the Executive (called "Executive Functions") may be delegated by the Leader of the Council to a Committee of the Executive, an individual Member of the Executive (Cabinet Member) or an Officer (exercising Executive Functions). Executive Functions may also be delegated to another local authority or exercised jointly through a joint committee or officer of another authority. The delegation of Executive Functions is set out in Part 3E 'Executive Functions' below.
- 3A.5 Functions which are not the responsibility of the Executive (called 'non-Executive Functions') are the responsibility of Council, Committees (and Sub-Committees) or Officers (exercising non-Executive Functions)³. Delegation of non-Executive Functions is set out in Part 3B 'Council Functions', Part 3C 'Committee Functions' and Part 3D 'Officer Non-Executive Functions' below.

¹ Officers are, in this Part 3 of the Constitution, the Chief Executive, Executive Directors and Directors.

² Local Authority (Functions & Responsibilities) (England) Regulations 2000 as amended (see Appendix #)

³ Non-Executive Functions may also be delegated to another local authority or exercised jointly through a joint committee or officer of another local authority. There are currently no such delegations in place.

- 3A.6 Any reference in this Part 3 of the Constitution to any Function, and any delegation of power includes all action associated with that Function or power and all related enforcement actions.
- 3A.7 A Key Decision⁴ shall only be taken by Cabinet, unless such a decision has been specifically delegated by the Leader to a Cabinet Member or an Officer or unless the Leader, Chief Executive (or, in his absence or where he is unable to act, an Executive Director) is making an urgent decision⁵ (as set out in Part 3E below).
- 3A.8 A Significant Decision⁶ shall only be taken by Council or a Committee unless such a decision has been specifically delegated to a Sub-Committee or Officer or unless the Chief Executive (or, in his absence or where he is unable to act, an Executive Director) is making an urgent decision⁷ (as set out in Part 3D below).

⁴ Relates only to Executive Functions and is defined in Article 13

⁵ As defined in Article 13

⁶ Relates to non-Executive Functions and is defined in Article 13

⁷ As defined in Article 13

PART 3

Responsibilities for Functions

Part 3B – Council Functions

3B.1 The functions that may only be exercised by Council are set out in Table 1 below:

Table 1 (Functions of Council)

Determine which plans, strategies and policies shall comprise the Authority's Policy Framework ¹ and from time to time approve, adopt and amend those plans, strategies and policies
Determine and amend the Authority's Budget ²
Approve a departure from the approved Policy Framework and/or the approved Budget ³
Appoint and remove the Leader ⁴
Change the executive arrangements of the Authority ⁵
Establish, abolish and decide the terms of reference and the composition of Council Committees and make appointments including co-opted members to them and other non-Executive bodies ⁶
Make and amend Procedural Rules, Financial Rules and Contract Rules ⁷
Change the name of the Borough or a parish ⁸
Elect a Mayor (Council Chair) and Deputy Mayor (Council Vice-Chair) ⁹
Confer the title of Honorary Alderman ¹⁰ and grant the Freedom of the Borough
Promote or oppose local or personal bills
Where it is the function of the Authority, divide Parliamentary Constituencies and local government electoral divisions into polling districts ¹¹
Appoint an Electoral Registration Officer ¹² and Returning Officer for local government elections ¹³
Make, amend, revoke or re-enact Byelaws
Dissolve small parish councils and make orders for grouping parishes, dissolving groups and separating parishes from groups and make temporary appointments to parish councils ¹⁴
Fill Council or Parish Council vacancies in the event of insufficient nominations
Change ordinary year of election of parish councillors ¹⁵
Submit proposals to the Secretary of State for an Order for pilot schemes for local elections ¹⁶

¹ Policy Framework is defined in Article 4

² Budget is defined in Article 4

³ Subject to Rule 4 Budget & Policy Framework Rules (Part 4G)

⁴ Stat ref #

⁵ S# LGA 2000

⁶ S101 LGA 1972

⁷ ss 135, #, 151 LGA 1972 (For Procedural, Financial and Contract Rules see Part 4)

⁸ ss74 & 75 LGA 1972

⁹ ss3-5 LGA 1972

¹⁰ S249 LGA 1972

¹¹ ss18 & 31 Rep of the People Act 1983

¹² s8(2) Rep of the People Act 1983

¹³ s35 Rep of the People Act 1983

¹⁴ ss 10, 11 & 91 LGA 1972

¹⁵ s53 LGPIH Act 2007

¹⁶ s10 Rep of the People Act 2000

Authorise community governance reviews ¹⁷
Confirm the appointment or dismissal of the Head of Paid Service and designate officers as the Monitoring Officer and the Chief Finance Officer ¹⁸
Make a scheme for the payment of allowances to Members and determine the amount of all allowances payable to Members of the Council
Approve the Pay Policy Statement ¹⁹
Establish and abolish Joint Committees (in respect of non-Executive functions) ²⁰
Authorise applications to the Secretary of State for approval of housing land transfers ²¹
Appoint or nominate individuals to outside bodies in respect of non-Executive Functions and revoke or withdraw such appointment or nomination ²²
Appoint or nominate individuals to outside bodies in respect of Executive Functions and revoke or withdraw such appointment or nomination where there is no Group Leader consensus on the decision to be taken
Adopt or amend the Code of Members' Conduct ²³
Take decisions and/or give advice on matters brought to Council by the Leader, Cabinet, Officers and other bodies or persons
Receive and consider statutory reports from the Head of Paid Service and the Monitoring Officer ²⁴
Determine whether local choice functions ²⁵ will be exercised by Council or the Cabinet and undertake such local choice functions as allocated to Council
Discharge any other function which is by law reserved to Council

¹⁷ Chapter 3, part 4 LGPIH Act 2007

¹⁸ ss4&5 LG(MP)A89 and s151 LGA 1972

¹⁹ s38 Localism Act 2011

²⁰ s101(5) LGA 1972

²¹ Para # Fcts & Resps Regs 2000

²² Local Authorities (Functions and Responsibilities) Regulations 2000

²³ See Part 5A. The statutory context of the Code may change under the Localism Act.

²⁴ ss 4 and 5 Local Government (Misc Provisions) Act 1989

²⁵ The allocation of local choice functions is shown at Appendix #.

Part 3C: Committee Functions

- 3C.1 Council has established the Committees set out in Table 2 below to discharge certain functions which are neither reserved to Council nor Executive or solely Executive functions. Council retains the right to a concurrent and overriding exercise of all functions in Table 2.
- 3C.2 The Authority must have at least one Overview and Scrutiny Committee and this is set out in Table 3 below.
- 3C.3 A Committee may establish such Sub-Committee(s) as it sees fit to undertake certain of its functions and the Tables below include such Sub-Committees.
- 3C.4 Unless otherwise required by law, a Committee or Sub-Committee in Table 2 may determine not to exercise a function delegated to it and refer that function upwards for determination by respectively Council or the parent Committee.

Table 2 (Functions of Committees)

PLANNING COMMITTEE (made up of 11 members)	
Function	Condition
<p>Planning, etc. applications</p> <p>Determine an application for:</p> <ul style="list-style-type: none"> (a) full planning permission; (b) outline planning permission; (c) approval of reserved matters; (d) listed building consent; (e) advertisement control consent (f) permission in principle; (g) technical details consent 	<p>The power shall only be exercised where the application:</p> <ul style="list-style-type: none"> (a) is contrary to the provisions of the development plan and is being recommended for approval (b) is for a proposal which an Officer intends to support and which has, prior to the expiry of the statutory consultation period, been objected to in writing by the parish council setting out the public interest and planning reason for their objection; unless the Chair and Vice Chair consider that the objection is one which does not require Committee assessment; (c) is one in respect of which any Member has, within 21 days of being notified that a valid application has been received submitted a written request setting out the public interest and planning reasons to the Director of Communities & Economic Development that it be determined by the Planning Committee and that request has been accepted in accordance with the

	<p>referral process¹;</p> <p>(d) is submitted by or on behalf of the Council or the Gloucestershire County Council;</p> <p>(e) is submitted by a Member, an Executive Director, Director or an existing employee of the Communities and Economic Development Division;</p> <p>(f) is one which the Planning Committee has by way of formal resolution specifically required should be determined by the Committee; or</p> <p>(g) is one which the Director of Communities and Economic Development or Head of Planning considers should be determined by Planning Committee.</p>
<p>Trees</p> <p>Determine applications relating to trees including (a) trees covered by Tree Preservation Orders: and (b) trees within Conservation Areas.</p>	<p>The power shall only be exercised in respect of an application:</p> <p>(a) submitted by a (i) a Member, (ii) a current employee of the Communities and Economic Development Division of the Council or (iii) the Council or Gloucestershire County Council;</p> <p>(b) which a Member of the Council has, within the consultation period, requested should be determined by Planning Committee; or</p> <p>(c) which the Director of Communities and Economic Development or Head of Planning considers should be determined by Planning Committee</p>
<p>Planning Policy</p> <p>Act as consultee to Cabinet Member on recommendations/responses for the adoption and review of local and national planning policy</p>	<p>Adoption of local planning policy is a Council function</p>

¹ The referral process is set out in the detail in the Planning Code of Conduct

LICENSING COMMITTEE (made up of 10 members)	
Function	Condition
Establish Licensing Sub-Committees	
Licensing Act 2003 Act as consultee to Cabinet Member on recommendations/responses for the adoption and review of the Licensing Policy Statement and national licensing policy	Adoption of the Licensing Policy Statement is a Council function
MISCELLANEOUS LICENSING SUB-COMMITTEE	(5 Members politically balanced)
Hackney Carriage and Private Hire	
Determine an application for the grant variation or renewal of a driver or vehicle licence	<ol style="list-style-type: none"> 1. Where an application is made contrary to adopted policy and where officers do not have delegated powers 2. Any matter(s) calling into question the fitness of an applicant, licensed driver and/or licensed vehicle 3. Any other circumstance(s) where an officer deems it relevant to exercise discretion to refer a matter to the committee
Determine an application for the grant or variation of an operator's licence	<ol style="list-style-type: none"> 1. Where an application is made contrary to adopted policy and where officers do not have delegated powers 2. Any matter(s) calling into question the fitness of an applicant, licensed operator 3. Any other circumstance(s) where an officer deems it relevant to exercise discretion to refer a matter to the committee
Determine an application for the transfer of a vehicle licence	<ol style="list-style-type: none"> 1. Where an application is made contrary to adopted policy and where officers do not have delegated powers 2. Any matter(s) calling into question the fitness of an applicant and/or licensed vehicle 3. Any other circumstance(s) where an officer deems it relevant to exercise discretion to refer a matter to the committee
Suspend or continue the suspension of a driver, vehicle or operator's licence	Where an officer chooses not to exercise delegated power

Revoke a driver, vehicle or operator licence	
Adopt and amend standard conditions for hackney carriage and private hire licences	
Any other licensable activity not otherwise referred to including sex establishments	
Determine any application for the grant, renewal, variation or transfer of a licence, consent, permit or permission	If a relevant objection is made
Revoke or withdraw any licence, consent, permit or permission	If a relevant representation is made
ALCOHOL AND GAMBLING LICENSING SUB-COMMITTEE	(3 Members from the main committee (not substitutes) no requirement for political balance)
Function	Condition
Licensing Act 2003	
Determine an application for a personal licence	If a police objection
Determine an application for a personal licence with unspent conviction(s)	All cases
Determine an application for a premises licence/club premises certificate	If a relevant representation made
Determine an application for a provisional statement	If a relevant representation made
Determine an application to vary a premises licence/club premises certificate	If a relevant representation made
Determine an application to vary a designated premises supervisor	If a police objection
Determine an application for transfer of a premises licence	If a police objection
To determine an application for interim authorities	If a police objection
Determine an application to review a premises licence/club premises certificate	All cases
Lodge an objection where the Council is a consultee and not the relevant authority	All cases

considering the application	
Determine a police objection to a temporary event notice	All cases
Determine an application to vary premises licence at community premises to include alternative licence conditions	If a police objection
Gambling Act 2005	
Act as consultee to Cabinet Member on recommendations/responses for the adoption and review of the Licensing Policy Statement and national licensing policy including policies on casinos	Adoption of the Licensing Policy Statement is a Council function
Determine an application for a premises licence	Where representations have been made and not withdrawn
Determine an application for a variation to a premises licence	Where representations have been made and not withdrawn
Determine an application for a transfer of a premises licence	If a representation received from the Gambling Commission or responsible authority
Determine an application for a provisional statement	All cases
Review a premises licence	All cases
Determine an application for club gaming/club machine permit	Where representations have been made and not withdrawn
Cancel a club gaming/club machine permit	All cases
Decide to give a counter notice to a temporary use notice	All cases

AUDIT, COMPLIANCE AND GOVERNANCE COMMITTEE (made up of 7 members)
Function
General
Provide a broad based audit role across all areas of the Authority, while promoting and ensuring effective internal control and independent assurance mechanisms
Internal Audit
Consider the internal audit annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Authority's corporate governance arrangements
Provide on-going monitoring of the operational audit plan and audit planning process
Agree internal audit plans (ensuring that internal audit work is planned with

due regard to risk, materiality and supports the attainment of the Authority's aims and priorities)
Review internal audit performance
Monitor and review the actions required arising out of audit recommendations
External Audit
Consider and review the external audit and inspection letter and all associated reports and other documents
Consider and review external audit reports
Monitor and review actions required arising out of external audit recommendations
Contribute to the forward work plan of the Authority's external auditors (insofar as they relate to the Authority)
Review all matters relating to external audit, including audit and inspection planning, action points and reports
Ensure effective liaison between external and internal audit and any other inspection agency
To be consulted on any proposals for the appointment of the council's external auditor
Risk Management
Ensure that an appropriate corporate risk management strategy is in place
Ensure that risk management procedures are satisfactorily carried out
Provide on-going monitoring and review of the risk management strategy
Annual Statement of Accounts
Review and approve the annual statement of accounts and statement of internal control, specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that needs to be brought to the attention of the Authority
Ensure appropriate arrangements operate for the development of the Statement on Internal Control
Review the annual report to members from the external auditor to those charged with governance on issues arising from the audit of the statement of accounts
Corporate Governance Framework
Ensure systematic appraisal of the Authority's control environment and framework of internal control to provide reasonable assurance of effective and efficient operations
In conjunction with the Monitoring Officer, ensure that the highest standards of probity and public accountability are demonstrated including anti-fraud and anti corruption arrangements
Ensure arrangements operate to evaluate and report on compliance with the local code of corporate governance and to periodically review the code
Review internal and external reports and assessments in respect of corporate governance
Ensure and maintain effective liaison with the Corporate Governance Group

Standards	
(a)	To promote and maintain high standards of conduct and to assist Members and Co-opted Members to observe the Code of Conduct, and to: <ul style="list-style-type: none"> • advise the Council on the adoption or revision of the Code; • monitor the operation of the Code; and • provide advice and training.
(b)	To promote and maintain high standards of conduct in Parish Councils and to assist Parish Councils to observe the Code of Conduct, and to: <ul style="list-style-type: none"> • advise Parish Councils on the adoption or revision of Codes of Conduct; • monitor the operation of their Codes; and • provide advice and training to Parish Councillors.
(c)	Determine applications for dispensations which have been made by Members of the Borough Council and which have not been determined by the Monitoring Officer under authority delegated to them.
(d)	Prepare, monitor and review Codes and Protocols to support the Code of Conduct and recommend to Council accordingly.
(e)	Consider reports from the Monitoring Officer on the number of complaints received under the Code of Members' Conduct and the decisions taken by the Monitoring Officer in consultation with the Independent Person(s) on such complaints.
(f)	Consider and determine the appropriate action on matters referred by the Monitoring Officer in relation to the assessment of complaints where the Monitoring Officer has been unable to exercise their delegated authority.
(g)	Receive summary reports from the Monitoring Officer: <ol style="list-style-type: none"> a) on complaints that have been investigated where 'no breach' of the Code has been found to have occurred; and b) on complaints where a 'breach' of the Code has been found but where it has been possible for a local resolution to be agreed.
(h)	Adopt procedures for the hearing of cases of a 'breach of the Code' finding upon investigation via a Hearings Sub-Committee

STANDARDS HEARINGS SUB-COMMITTEE (made up of 3 members from the Audit, Compliance and Governance Committee)

Function

The Standards Hearings Sub Committee will undertake the functions set out below.

(1)	Hear cases, including those relating to Parish Council Members and Co-opted Members, of an alleged breach of the Member Code of Conduct referred by the Monitoring Officer following a report of an Investigating Officer.
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(2)	<p>In respect of Members of the Borough Council, where it has been determined that a Member has failed to comply with the Authority's Code of Conduct, impose one or more of the following, if appropriate:</p> <ul style="list-style-type: none"> a) censure; b) report to Council; c) recommend actions to the Leader of the Council; d) recommend actions to Group Leader (e.g. removal from a Committee) e) removal from Outside Bodies; f) withdrawal of facilities, such as Council email/website/internet access; g) exclusion from the Council Offices, or other premises, with the exception of meeting rooms as necessary for attending Council, Committees or Sub-Committees and/or nominating a single point of contact; and/or h) requesting the Member to undertake actions deemed appropriate e.g. training, issue of an apology.
(3)	<p>In respect of the Members of Parish Councils, within the area of Cheltenham Borough Council, where it has been determined that a Member / Co-opted Member has failed to comply with their Authority's Code of Conduct, impose one or more of the following, if appropriate:</p> <ul style="list-style-type: none"> a) censure; b) report to the Parish Council recommending actions which could include removal from a Committee, removal from an Outside Body or withdrawal of facilities; and/or c) requesting the Member to undertake actions deemed appropriate e.g. training, issue of an apology.

<p>APPOINTMENTS AND REMUNERATION COMMITTEE (made up of 9 members)</p>
<p>Function</p>
<p>Be responsible for the appointment and dismissal of any Executive Officers</p>
<p><i>NOTE; No offer of appointment shall be made until the proposed action (including the name and any other particulars the Committee considers relevant) has been notified to every member of the Cabinet and either:-</i></p> <ul style="list-style-type: none"> <i>1. within the period specified in the notification no objection has been made by the Leader on behalf of the Cabinet to the proposed action; or</i> <i>2.the Committee is satisfied that any objection made is not material or is not well founded; or</i> <i>3.the Leader has, within the period specified in the notification, notified the Chief Executive that neither they nor any member of the Cabinet has any objections</i>
<p>Determine the conditions on which the Executive Officers hold office, including deciding matters relating to the early retirement of those officers.</p>
<p>Consider the Pay Policy Statement and refer it to Council for approval</p>
<p>Determine policies relating to employee remuneration</p>

Determine policies relating to local government pensions and discretionary compensation.
Deal with any other appointments, dismissal or remuneration matters referred by Council or Head of Paid Service
DISCIPLINARY COMMITTEE (made up of 5 members)
Function
Manage and consider any disciplinary and/or capability and any grievance matters arising in relation to any Executive Officer.
Carry out the function of an Investigating & Disciplinary Committee as set out in the JNC Conditions of Service for Chief Officers.
Consider allegations concerning the conduct or capability of any Executive Officer in order to establish whether or not they are sufficiently well-founded and serious in content to justify investigation
If appropriate, suspend an Executive Officer under the terms of the JNC Conditions of Service for Chief Officers. Where appropriate and in a case of urgency the Chair of the Disciplinary Committee can suspend, for a period of up to 2 months, an Executive Officer. This power can only be exercised following consultation with Human Resources.
Comply with the notification requirements of Rule 6 of Part 4F of the Constitution (Employment Rules) and to consider any objections from members of the Cabinet to establish whether they are material and/or well-founded.
In respect of Executive Officers (other than the Head of Paid Service, Chief Finance Officer or Monitoring Officer) to (a) appoint, if appropriate, an investigator to carry out an investigation on behalf of the Committee (which power can be delegated to an Officer); (b) receive and consider any report of an investigator; (c) hold a capability, disciplinary or grievance hearing; (d) following any capability and/or disciplinary hearing, determine a course of action (up to and including dismissal) within the Council's powers under law and within its procedures, including the procedure set out in Rule 6 of Part 4F of the Constitution (Employment Rules)
APPEALS COMMITTEE (made up of 5 members)
Function
Hear and determine appeals against decisions of the Disciplinary Committee in respect of action taken against any Executive Officer (other than the Head of Paid Service, Chief Finance Officer or Monitoring Officer)
Hear and determine appeals against any action short of dismissal taken by the Disciplinary Committee against the Head of Paid Service, Chief Finance Officer or Monitoring Officer



Table 3

OVERVIEW & SCRUTINY COMMITTEE (made up of 9 members)
Functions
General
Agree the Overview & Scrutiny (O&S) workplan taking into account corporate priorities, the forward plan, issues of local concern and available resources
Establish standing or ad hoc sub-committees as required and set the size and high level terms of reference
Establish time-limited scrutiny task groups (STGs) to carry out in-depth reviews of a particular issue, set the size and high level terms of reference and agree reporting lines (to the Committee or its sub-committee) for recommendations
Establish the Budget STG, set the size and high level terms of reference and agree reporting lines (to the Committee, its sub-committee or Cabinet) for recommendations
Nominate members to Cabinet working groups when representatives of O&S are requested
Receive recommendations from STGs and forward to Cabinet, Council, committee or the appropriate body (including commissioning boards)
Promote good practice for O&S across the Authority
Promote the development of member skills and competencies in O&S
Scrutiny
Consider call-ins ² , including call in of any decisions under Joint Arrangements and decide appropriate action (including the establishment of STGs) and carry out any other actions covered by the Overview and Scrutiny Rules
Receive any councillor calls for action and petitions referred to O&S and decide appropriate action
Question Cabinet Members, committees, the Chief Executive, Executive Directors, Directors or representatives under joint arrangements regarding decisions taken, service delivery, initiatives or projects
Question, call for and gather evidence from any external person or organisation (with their consent)
Make reports and recommendations to Cabinet, Council, a committee or an external body arising from the outcome of the scrutiny process
Policy review and development
Receive and comment on plans, strategies, policies and budget proposals that comprise the Budget and the Policy Framework
Contribute to the monitoring, review and ongoing improvement of services provided either directly by the Authority or on behalf of the Authority (using sub-committees or STGs as appropriate)
Monitor the implementation of any O&S recommendations accepted by Cabinet or other bodies
Build appropriate relationships with other parts of the Authority, external bodies and the public to facilitate effective scrutiny
Participate in joint scrutiny with other authorities and work with other authorities in Gloucestershire to strengthen the scrutiny role in respect of partnerships
Crime and disorder
Consider any crime and disorder matters

² Rule 14 Overview & Scrutiny Rules (see Part 4D)

Part 3D – Officer Non-Executive Functions

- 3D.1 All non-Executive Functions, other than those allocated in Parts 3B & C above, are delegated to officers as set out in Table 4 below
- 3D.2 In addition, officers will exercise powers or duties specifically delegated to them by Council, Committee, Sub-Committee or Joint Committee.
- 3D.3 Officers are not required to exercise all delegations personally and may sub-delegate any Function in this Part 3D to Officers of suitable experience and seniority in accordance with the process set out in Part 3E.
- 3D.4 An Officer does not have delegated authority to take a Significant Decision unless (a) specifically authorised to do so by Council, Committee, Sub-Committee or Joint Committee, or (b) the Chief Executive (or, in their absence or where they are unable to act, an Executive Director is taking action under urgency powers as set out in this Part 3D.
- 3D.5 The fact that a function is delegated to an Officer under this Scheme does not preclude the person or body which gave the delegation from exercising the function in question.
- 3D.6 Council or an Appropriate Committee may direct in any particular case that a delegated power to an Officer in respect of a non-Executive Function shall not be exercised by the Officer and that the Function in question shall instead be exercised by the Council or Appropriate Committee. Such direction must be exercised in consultation with the Chief Executive or appropriate Executive Director.
- 3D.7 The Chief Executive, Executive Director or Director may at their discretion refer any matter to Council or Appropriate Committee for decision.
- 3D.8 Officers have responsibility to report to Council, the Appropriate Committee, the Mayor or Appropriate Committee Chairman matters that are of political or strategic significance where that body or person is not required to make a decision but where it is proper for them to be aware of the position.
- 3D.9 Article 13 'Decision Making' applies to the exercise of all Non-Executive Functions by Officers in this Part 3D.

Table 4 (Non-Executive functions of Officers)

Chief Executive (for the avoidance of doubt all functions delegated to the Chief Executive are delegated to the Deputy Chief Executive in the event that the Chief Executive is absent or unable to act)	
Function	Condition
Discharge any non-Executive Function not otherwise allocated in Parts 3B-D of the Constitution	Unless prohibited by law

Chief Executive (for the avoidance of doubt all functions delegated to the Chief Executive are delegated to the Deputy Chief Executive in the event that the Chief Executive is absent or unable to act)	
Function	Condition
Discharge any non-Executive Function which is delegated to an Officer under Part 3D	Where that Officer is absent or unable to act through conflict of interest or otherwise Except in the case of the Monitoring Officer or Chief Finance Officer where they have allocated the function to their deputy
Take an urgent decision in respect of a non-Executive Function, including a Significant Decision, in a situation where there is not sufficient time for a report to be considered by Council or Appropriate Committee.	Unless it is a decision that in law can only be made by Council. Wherever possible this shall be done in consultation with the Mayor or Appropriate Committee Chairman. The decision shall be reported to the next scheduled meeting of Council or the Appropriate Committee
Take an urgent decision not in accordance with the Budget or the Policy Framework	In accordance with Rule 4 Budget & Policy Framework Rules The decision shall be reported to the next available meeting of Council
Determine claims and payments in accordance with the scheme of Member Allowances	
Discharge functions and take actions and decisions in respect of elections, electoral registration, referenda and related legislation	Except as specifically allocated to Council in Part 3B Table1
Discharge functions and responsibilities with regard to parish councils	Except as specifically allocated to Council in Part 3B Table1
Undertake the functions of the Head of Paid Service including the duty, where he considers it appropriate to do so, of reporting to Council ¹ on the manner in which the Authority functions are co-ordinated, the number and grades of staff to discharge those functions and the	

¹ s4 LG(MP)Act 1989

Chief Executive (for the avoidance of doubt all functions delegated to the Chief Executive are delegated to the Deputy Chief Executive in the event that the Chief Executive is absent or unable to act)	
Function	Condition
organisation and proper management of those staff	
Approve reorganisation of functions and restructuring of staff within service areas and the transfer of staff and functions between service areas	Except where the Head of Paid Service considers it appropriate to refer a report to Council ²
Approve redundancy of or an application for early retirement (including ill health retirement) of an employee	Except (in the case of the Head of Paid Service, an Executive Leadership Team Member or Director) as specifically allocated to Council or Committee in Part 3B Table 1 or and Part 3C Table 2. Subject to corporate HR policies
Approve HR procedures and policies which relate to employee terms and conditions of employment	Except as specifically allocated to Appointments and Remuneration Committee in Part 3C Table2
Undertake functions in respect of local government pensions	Except as specifically allocated to Appointments and Remuneration Committee in Part 3C Table2
Authorise any Officer for any legal purpose including Proper and Statutory Officer appointments	Unless otherwise prescribed by law or allocated to Council in Part 3B
Grant dispensations to Cabinet Members to allow them to participate in consultation on executive decisions where they have a conflict of interest	

² Under s4 LG(MP) Act 1989

Deputy Chief Executive	
Function	Condition
Undertake the functions of the Authority's Chief Financial Officer to ensure proper administration of the Authority's financial affairs	
Approve ex gratia and maladministration compensation payments up to £5,000 ³	
Approve the carry forward of budget underspend to next financial year for same purpose as originally intended	
Make minor changes to the Financial Rules to reflect changes in fact and accounting and audit requirements/best practice	Statutory Officers and Group Leaders to be informed of any change which the Deputy Chief Executive considers to be significant

Monitoring Officer	
Function	Condition
Amend the Constitution to reflect changes of fact including changes in allocation of Functions	Executive Leadership Team and Group Leaders to be informed of any change which the Monitoring Officer considers to be significant
Make minor changes to the Contract Rules to reflect changes in fact and procurement requirements and best practice	Executive Leadership Team and Group Leaders to be informed of any change which the Monitoring Officer considers to be significant
Undertake the functions of the Monitoring Officer prescribed by law and in this Constitution	
Make minor changes to the Constitution to reflect changes in fact, law and best	Statutory Officers and Group Leaders to be informed of any change which the

³ S92 LGA 2000

Monitoring Officer	
Function	Condition
practice and rectify errors and inconsistencies	Monitoring Officer considers to be significant
<p>Receive complaints in writing regarding allegations of failure to comply with the Members' Code of Conduct and</p> <ul style="list-style-type: none"> • to determine, after consultation with the Independent Person(s), whether a complaint should be investigated and to arrange such investigation; • to seek local resolution of complaints without formal investigation where it is possible to do so; • to close a complaint if the investigation finds no evidence of failure to comply with the Code of Conduct; • to agree a local resolution where an investigation finds evidence of a failure to comply with the Code of Conduct, subject to consultation with the Independent Person(s) and the complainant being satisfied with the proposed resolution; • to grant dispensations if, after considering all of the circumstances of the case, the Monitoring Officer considers:- <ul style="list-style-type: none"> (a) that the business will be impeded because of the number of Members prohibited from participating; (b) that without the dispensation the political proportionality would be distorted to alter the outcome of the vote. 	

Directors	
Function	Condition
Appoint, dismiss and discipline employees within their service areas and determine their individual terms and conditions of employment and matters relating thereto	Director level and above is allocated to Members in Part 3C Table 2. Subject to Employment Rules (Part 4F) and corporate HR policies
Approve revenue budget virements between service areas/budget heads not exceeding £25,000	Amounts over £10,000 but not exceeding £25,000 – Approved by relevant Director(s) or Head of Service(s) and the Section 151 Officer. Relevant Cabinet Member to be informed of this virement.
Set fees and charges and increase in line with inflation for non-Executive functions	Cabinet Member or Appropriate Committee Chairman to be informed

Director of Planning	
Function	Condition
Determine applications for: (a) full planning permission; (b) outline planning permission; (c) approval of reserved matters; (d) listed building consent; (e) conservation area consent; (f) advertisement control consent	Except as specifically allocated to Planning Committee under Part 3C Table 2
Determine planning applications relating to trees including (a) trees covered by Tree Preservation Orders: and (b) trees within Conservation Areas.	Except as specifically allocated to Planning Committee under Part 3C Table 2
Other actions and decisions (including enforcement, entry on to land and planning agreements) as local planning authority under the Town & Country Planning Act 1990, Planning (Listed Building &	Except as specifically allocated to or by Council

Director of Planning	
Function	Condition
Conservation Area) Act 1990 and all planning related legislation	
Highway authority functions relating to on-street parking (as delegated to the Authority by the County Council)	
Authorise the stopping up or diversion of a highway, footpath or bridleway or extinguish public rights of way over land held for planning purposes ⁴	
Extinguish public right of way over land acquired for clearance ⁵	
Undertake functions relating to high hedges and protection of important hedgerows ⁶	

Head of Public Protection	
Function	Condition
Determine any application for the grant, renewal, variation or transfer of a licence, consent, permit or permission	Except as specifically allocated to Licensing Committee or Sub-Committee under Part 3C Table 2
Suspend or continue the suspension of a hackney carriage or private hire driver, vehicle or operator's licence	Where public safety is at risk
Revoke or withdraw a licence, consent, permit or permission	Except as specifically allocated to Licensing Committee or Sub-Committee under Part 3C Table 2

⁴ ss 247, 257, 258 TCPA 1990

⁵ s294 Housing Act 1981

⁶ Part 8 Anti-Social Beh Act 2003 & Hedgerows Regs 1997

Head of Public Protection	
Function	Condition
Other actions and decisions (including enforcement, entry on to land and waiving of fees) as licensing authority under the Licensing Act 2003, Gambling Act 2005 and all other licensing legislation	Except as specifically allocated to Council, Licensing Committee or Sub-Committee under Part 3C Tables 1 and 2
Highway authority functions (as delegated to the Authority by the County Council)	Except as specifically allocated to Licensing Committee under Part 3C Table 2
Discharge all functions under the Health & Safety at Work etc. Act 1974 and other health and safety related legislation (otherwise than in the Authority's capacity as employer)	
Discharge all functions under food and food safety legislation which cannot be exercised as Executive Functions	

<u>Head of Building Control</u>	
<u>Function</u>	<u>Condition</u>
To pass or reject plans submitted to the Council under Building Regulations. To determine applications made to the Council for dispensations from or relaxations of Building Regulations.	
To issue or serve any appropriate notices under the Building Act 1984, including Notices in respect of dangerous structures.	
In consultation with the Director of One Legal, to prosecute or take other appropriate legal proceedings to secure compliance with the Building Act 1984 and under the Building Regulations.	

<u>Head of Building Control</u>	
<u>Function</u>	<u>Condition</u>
To set charges for all Building Regulation purposes together with power to vary such charges where it is considered to be in the Council's interests to do so.	
To participate in the Partner Authority Scheme whereby local Building Control bodies aid each other in providing a coordinated delivery mechanism to applicants.	
To issue completion certificates for works carried out under a Building Regulations and those requested in respect of premises designated under the Fire Precautions Act 1971.	
To act as "appropriate officer" for the purposes of the Party Walls etc. Act 1996.	

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Part 3E – Executive Functions

- 3E.1 The Authority operates a Leader and Cabinet form of Executive and the Leader of the Council specifies how the functions of the Executive (known as ‘Executive Functions’) will be carried out.
- 3E.2 In law the Leader of the Council may discharge any Executive Functions and exercise any powers which are the responsibility of the Executive; alternatively the Leader may arrange for the discharge of any of those Functions by delegation to any of the following:-
- (a) the Cabinet
 - (b) a Cabinet Committee
 - (c) an individual member of the Cabinet (Cabinet Member)
 - (d) an officer of the Council
 - (e) another local authority
 - (f) jointly with another local authority through a joint committee or officer

Delegations

- 3E.3 The Leader has exercised their power of delegation in the manner set out below in Table 5 ‘Scheme of Delegation of Executive Functions’ and Table 6 ‘Additional Delegation of Executive Functions to Officers’. In Table 5 reference to ‘Cabinet Member’ means a Cabinet Member acting in portfolio and reference to ‘Officer’ means Chief Executive, Deputy Chief Executive or Director.
- 3E.4 The Leader has directed that the Executive Functions delegated to Cabinet and Cabinet Members as set out in Table 5 shall not be sub-delegated to Officers without their prior consent.
- 3E.5 Each person or body to whom an Executive Function is delegated in Tables 5 and 6 and shall be empowered to take any step in the course of or otherwise for the purposes of or in connection with the discharge of the Function, do anything incidental or conducive to discharge of the Function or do anything expedient in connection with the discharge of the Function.
- 3E.6 The Leader may amend their delegations at any time by giving notice in writing to any person who currently holds the power and any person to whom the power is now to be delegated and to the Proper Officer¹ setting out the change to be made; such amendment to take effect immediately on receipt by the Proper Officer. The Proper Officer will ensure that this Part 3 of the Constitution is updated forthwith.
- 3E.7 Where an Executive Function has been delegated by the Leader this does not prevent the Leader from exercising that Function.
- 3E.8 In the absence of the Leader the Deputy Leader is authorised to exercise the functions of the Leader pursuant to the Constitution.

¹ The Chief Executive or, where they are absent or unable to act, the Monitoring Officer

3E.9 Article 13 'Decision Making' applies to the exercise of all Executive Functions in this Part 3E.

Officer Delegations - Special Provisions and Sub-delegations

3E.10 The Chief Executive, Deputy Chief Executive Directors and Director of One Legal are not required to exercise all delegations personally and may sub-delegate any Function allocated under this Part 3E to officers of suitable experience and seniority in accordance with the following process:.

3E.11 An Officer does not have delegated authority to take a Key Decision² unless (a) specifically authorised to do so by the Leader or (b) the Chief Executive (or, in their absence or where they are unable to act, the Deputy Chief Executive is taking an urgent decision³ as set out in this Part 3E⁴.

3E.12 The fact that a function is delegated to an Officer under this Scheme does not preclude the person or body which gave the delegation from exercising the function in question.

3E.13 The Leader may direct in any particular case that a delegated power to an Officer in respect of an Executive Function shall not be exercised by an officer and that the Function in question shall instead be exercised by the Leader, a Cabinet Member or Cabinet. Such direction must be exercised in consultation with the Chief Executive, Deputy Chief Executive or appropriate Director(s).

3E.14 A Cabinet Member may in respect of an Executive Function which falls within their portfolio direct in any particular case that a delegated power to an Officer shall not be exercised by an officer and shall instead be exercised by them as Cabinet Member. Such direction must be exercised in consultation with the Chief Executive, Deputy Chief Executive or appropriate Director(s) and the Leader.

3E.15 The Chief Executive, Deputy Chief Executive or a Director may at their discretion and in consultation with the Leader or Cabinet Member refer any matter to the Leader, the Cabinet or a Cabinet Member for decision.

3E.16 Officers have responsibility to report to the Leader, Cabinet or the Cabinet Member matters that are of political or strategic significance where that body or person is not required to make a decision but where it is proper for them to be aware of the position

Sub-delegations

3E.17 A Director is not required to exercise all delegations personally and may sub-delegate functions to a Service Manager or other Employee in any of their service areas provided the following conditions are met:

² As defined in Article 13

³ As defined in Article 13

⁴ See Tables 5 and 6



- a) the Director is satisfied that
 - (i) the Service Manager or other Employee has suitable experience and seniority to undertake those functions, and
 - (ii) the sub-delegation is in the interest of the efficient operation of the Council's business;
- b) there is prior consultation with the appropriate Cabinet Member or Committee Chair; and
- c) the Director records the details of sub-delegation on a register which is kept by them

3E.18 The Chief Executive and Deputy Chief Executive may also sub-delegate direct to a Service Manager or other Employee subject to the same conditions.

Table 5 Scheme of Delegation of Executive Functions

In this table the following abbreviations have the following meanings:

CEO: Chief Executive (for the avoidance of doubt CEO delegations can be exercised by the DCEO in the case of the CEO absence or inability to act)

DCEO: Deputy Chief Executive

MO: Monitoring Officer

All: Chief Executive, Deputy Chief Executive and Directors

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Policy and Strategy						
Recommend to Council all plans strategies and policies which comprise the Policy Framework and initiate consultation on such plans policies and strategies			✓			
Agree in year changes to the Policy Framework to the extent permitted by Council or by the Constitution			✓			
Refer to Cabinet for discussion those plans strategies and policies which comprise the Policy Framework and initiate any appropriate consultation on them	✓					
Take urgent decisions that are contrary to or not wholly in accordance with the Policy Framework	✓		✓	✓		CEO
Refer to Cabinet those plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval	✓	✓				All
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval			✓			
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet Member approval (except Key Decisions)		✓				

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Officer approval (except Key Decisions)						All
Respond to consultations from Government, local authority associations and similar bodies which have policy or cross service issues	✓	✓				
Respond to all other consultations						CEO or DCEO
Implement the Authority's Risk Management Policy & Strategy	✓	✓	✓			All
Finance						
Prepare and consult on the Authority's Budget and recommend to Council for approval			✓			
Receive and consider quarterly budget monitoring reports			✓			
Take urgent decisions that are contrary to or not wholly in accordance with the Budget	✓		✓	✓		CEO
Make bid for external funding or accept grant funding where the amount of funding exceeds £2 million ⁵ and to accept the terms and conditions of that funding, if awarded.			✓			
Make bid for external funding or accept grant funding where the amount of funding exceeds £500,000 but does not exceed £2 million and to accept the terms and conditions of that funding, if awarded	✓	✓				

⁵ In cases where the funding bid or grant exceeds £2million and the deadline for submission or acceptance makes it impossible to seek a Cabinet decision the bid or acceptance may be approved by the CEO or an Executive Director in consultation with the Leader or relevant Cabinet Member. As a matter of good practice other Group Leaders will be notified of the proposed decisions and details of the submission or acceptance will be reported to the next meeting of the Cabinet.

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Make bid for external funding or accept grant funding where the amount of funding is less than £500,000 and to accept the terms and conditions of that funding, if awarded.						All
Propose to Council a contribution to reserves above the level set in the Budget			✓			
Agree use of charging and trading powers		✓	✓			
Set fees and charges		✓				
Agree increase in fees and charges by more than inflation			✓			
Agree increase in fees and charges in line with inflation				✓		All
Assets and Property						
Agree asset management plan			✓			
Make compulsory purchase order (CPO)			✓			
Acquire land or property following CPO						DCEO Director of Major Developments & Regeneration, Head of Construction
Acquire other land or property or acquire a lease or tenancy agreement where the value exceeds £500,000			✓			Director of Finance and Assets, Director of Major Developments & Regeneration, Head of

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
						Construction or DCEO ⁶
Acquire other land or property or acquire a lease or tenancy agreement where the value does not exceed £500,000		✓				See footnote 6
Agree Void/Surplus Property Register in consultation with Asset Management Working Group						DCEO Director of Major Developments & Regeneration, Head of Construction
Administration of Right to Buy						Director of Finance and Assets, Director of Major Developments & Regeneration, Head of Construction or Head of Housing Services
Administration of Shared Ownership						Director of Finance and Assets, Director of Major Developments & Regeneration, Head of Construction or

⁶ In respect of decisions to purchase dwellings suitable for affordable housing subject to a budget allocation and conditions in the decision made by leader [01/11/2019](#))

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
						Head of Housing Services
Approval of Shared Ownership Disposals including initial sales, staircasing, resale or staircasing our		✓				Director of Finance and Assets, Director of Major Developments & Regeneration, or Head of Construction
Dispose of or exchange land or property with a value exceeding £500,000 including at an undervalue			✓			
Dispose of or exchange land or property with a value exceeding £50,000 and not exceeding £500,000 including at an undervalue		✓				
Dispose of or exchange land or property with a value not exceeding £50,000 including at an undervalue						DCEO Director of Major Developments & Regeneration, Head of Construction
Dispose of or exchange land or property where there is a statutory right to acquire						DCEO Director of Major Developments & Regeneration, Head of Construction
Dedicate sell or lease land for highway purposes and for public utilities where this does not materially interfere with the proper management of the land/retained land or its investment value		✓				

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Apply to Secretary of State to dispose of housing land under Housing Act 1985		✓				
Authorise the disposal of or change the use of (appropriate) public open space			✓			
Give public notice of a proposal to dispose of or change the use of public open space						DCEO Director of Major Developments & Regeneration, Head of Construction
Authorise the disposal of statutory allotments			✓			
Allocate and re-allocate all Authority owned assets, land and property between service areas	✓					
Authorise a change in use of Authority owned land or property		✓				
Authorise the grant of lease/rights/privileges of all Council owned land or property to external bodies where the annual rental or capital value exceeds £250,000.			✓			
Authorise the grant of lease/rights/privileges of all Council owned land or property to external bodies where the annual rental or capital value does not exceed £250,000						DCEO Director of Major Developments & Regeneration, Head of Construction
Authorise transfer by the Authority or surrender or agree the surrender of lease/rights/privileges of a capital value exceeding £250,000			✓			
Authorise transfer by the Authority or surrender or agree the surrender of lease/rights/privileges of a		✓				

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
capital value exceeding £10,000 and not exceeding £250,000						
Authorise transfer by the Authority or surrender or agree the surrender of lease/rights/privileges of a capital value not exceeding £10,000						DCEO Director of Major Developments & Regeneration, Head of Construction
Authorise rent subsidy to third party on Authority owned land			✓			
Grants						
Agree service level agreements and service level agreement funding in respect of voluntary organisations			✓			
Make one off grants (excluding rent subsidy on Authority owned land) to voluntary organisations exceeding £50,000 pa			✓			
Make one off grants (excluding rent subsidy on Authority owned land) to voluntary organisations not exceeding £50,000 pa		✓				
Service Delivery						
Take all steps reasonably necessary to facilitate the effective and efficient delivery of services within their portfolio		✓				
Take all steps reasonably necessary for the effective and efficient delivery of services for which they are responsible				Subject to the terms of the delegation agreement with Ubico	Subject to the terms of the delegation agreement to	All

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
					Tewkesbury Borough Council	
Undertake internal transformation and improvement of the Authority's services						CEO
Commissioning and Contracts						
Approve the means by which the Authority's services will be provided including through a local authority company, community interest company, private organisation, trust or public/private partnership			✓			
Arrange for any Executive Function to be undertaken by another local authority ⁷			✓			
Arrange for any Executive Function to be exercised jointly ⁸ with one or more local authorities through joint arrangements ⁹			✓			
Appoint member to a joint committee which undertakes Executive Functions and decide on the number of Members to be appointed and their term of office	✓					
Agree to Council appointment of member to a joint committee which undertakes at least one Executive Function and agree the number of members to be appointed and their term of office	✓					

⁷ Reg 7 Local Authorities (Arrgmts for Discharge of Functions) (Eng) Regs 2000

⁸ Reg 11 Local Authorities (Arrgmts for Discharge of Functions) (Eng) Regs 2000

⁹ As described in Article 11

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Represent (or arrange for a Cabinet Member or Officer to represent) the Authority as shareholder or member in a company in which the Authority holds an interest	✓					
Monitor the performance of contracts and service level agreements in respect of all non-internally provided housing services						All
Monitor the performance of contracts and service level agreements in respect of all non-internally provided services						All
Accept tenders within budget and exceeding £100,000 and authorise entering into the related Contract ¹⁰		✓				
Accept tenders and quotations within budget and not exceeding £100,000 and authorise entering into the related Contract						All
Approve waiver to Contract Rules where the value is in excess of £100,000 ¹¹			✓			
Approve waiver to Contract Rules where the value does not exceed £100,000 ¹²						All
Approve waiver from Contract Rules where the value exceeds £100K and an urgent decision is required ¹³						CEO
Local Strategic Partnerships						
Establish a policy or strategic framework for a partnership			✓			

¹⁰ The decision to award a contract above £100,000, which is within budget, is not a key decision under Article 13. The key decision (i.e. the budget expenditure in excess of £100,000) is made at budget setting. The decision to enter into a contract is to facilitate the expenditure approved at budget setting and, accordingly, is not a key decision. Decisions to award contract over £100k which are not key decisions are also not subject to the rules of call-in (Full Council decision 21/02/2025).

¹¹ In accordance with Contract Rules

¹² In accordance with Contract Rules

¹³ In accordance with Contract Rules

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Establish a partnership's annual work programme and make in year changes	✓	✓				
Implement an agreed policy or strategy						All
Neighbourhood Plans						
Designate neighbourhood area/forum			✓			
Submission of a neighbourhood development plan and a neighbourhood development order		✓				Director of Planning and Building Control
Approval of a neighbourhood development plan/neighbourhood development order for referendum			✓			
Localism Act						
Determine applications to register Assets of Community Value						Director of Planning and Building Control
Determine Appeals against applications to register Assets of Community Value						MO
Constitution and Democratic Process						
Make Key Decision ¹⁴		✓ ¹⁵	✓			All
Make urgent Key Decision ¹⁶	✓		✓			CEO
Respond to call-in of a decision ¹⁷	✓	✓	✓	✓	✓	All
Respond to a petition to Council		✓				
Appoint and remove Cabinet Members and decide their portfolios	✓					

¹⁴ As defined in Article 13.

¹⁵ Cabinet Member in respect of the spending on individual elements of the Cheltenham Transport Plan

¹⁶ The Leader, Chief Executive (or, in their absence or where he is unable to act, an Executive Director) may take an urgent key decision in accordance with Rule 16 Access to Information Rules (Part 4E). Also see Table 6.

¹⁷ Whoever took the decision will respond

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Establish Cabinet Committee or working group			✓			
Delegate Executive Function to a Cabinet Member or Officer pursuant to 3E.6	✓					
Delegate Executive Function to an Officer with prior consent of Leader pursuant to 3E.4		✓	✓			
Undertake such specific Executive Function as may be allocated from time to time by the Leader	✓	✓	✓			All
Undertake such specific Executive Function as may be delegated from time to time by Cabinet						All
Undertake any Executive Function which is delegated to an Officer where the Leader directs it should be exercised by Cabinet			✓			
Undertake any Executive Function which is delegated to an Officer where the Leader directs it should be exercised by a Cabinet Member		✓				
Undertake any Executive Function which is delegated to an Officer where the Cabinet Member directs it should be exercised by themselves in accordance with Rule 3E.14		✓				
Undertake any Executive Function which is delegated to an Officer where the Officer decides to refer it to Cabinet			✓			
Undertake any Executive Function which is delegated to an Officer where the Officer decides to refer it to a Cabinet Member		✓				
Undertake any Executive Function delegated to a Cabinet Member where through absence, conflict or otherwise the Cabinet Member is unable to act	✓					

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Undertake any Executive Function delegated to Cabinet which in the opinion of the Chief Executive requires an urgent decision before the next Cabinet meeting.	✓					
Appoint or nominate individuals to outside bodies in respect of Executive Functions and revoke or withdraw such appointment or nomination provided all Group Leaders agree ¹⁸	✓					
Legal Services						
Undertake the role and functions of the Authority's chief legal officer and provide the Authority's legal service					Subject to the terms of the delegation agreement to Tewkesbury Borough Council	
Waste						
Undertake functions of the Authority in respect of waste collection, recycling and street cleansing except for those functions reserved to the Authority ¹⁹				Subject to the terms of the delegation agreement with Ubico		

¹⁸ Where there is no Group Leader consensus on an appointment or nomination or revocation or withdrawal of such, the matter will be referred to Council for decision

¹⁹ See CE functions in Table 6

Additional delegation of Executive Functions to Officers

3E.19 All Executive Functions, other than those allocated in Table 5 of this Part 3E, are delegated to the Chief Executive, Deputy Chief Executive, Directors and the Director of One Legal as set out in Table 6 below.

3E.20 In addition, the Chief Executive, Deputy Chief Executive and Directors will exercise powers or duties specifically delegated to them by the Leader, Cabinet or a Cabinet Member²⁰.

Table 6

Function	Condition
Chief Executive	
Discharge any Executive Function which is delegated to an Officer under Part 3E	Where that Officer is absent or unable to act through conflict of interest or otherwise
Take an urgent decision in respect of an Executive Function (excluding a key decision) in a situation where there is not sufficient time for a report to be considered by the Leader, Cabinet or Cabinet Member.	Wherever possible this shall be done in consultation with the Leader and Cabinet Member (where not the Leader). The decision shall be reported to the next scheduled ordinary Cabinet meeting.
Authorise the use of the Authority's Coat of Arms and make arrangements for civic and twinning functions	
Authorise any Officer to or for any legal purpose including Statutory Officer appointments	Unless otherwise prescribed by law or allocated to Council in Part 3B
Make arrangements with other local authorities for the placing of staff at the disposal of those other authorities	
Approve transformational change, cultural and organisational development strategy and associated policies	Except those relating to terms and conditions of employment ²¹ of Executive Officers
In respect of joint waste: <ul style="list-style-type: none"> • authorising changes to the inter authority agreement²² • budget setting; • service charges; • collection and disposal methods and policy changes to such collection and disposal methods; • procurement decisions in respect of the Functions; • enforcement proceedings or other legal action in respect of the Functions and • corporate media communications. 	

²⁰ Cabinet or a Cabinet Member may only delegate to an Officer with the prior approval of the Leader

²¹ This is a non-Executive Function and is delegated in Part 3D

²² Dated 1 April 2013

Function	Condition
Deputy Chief Executive and Directors	
Discharge any Executive Function which is delegated to an Officer (including the Head of Paid Service) under this Part 3E	Where that Officer is absent or unable to act through conflict of interest or otherwise.
Undertake the role of Head of Paid Service/Chief Executive	(Deputy Chief Executive only) Where the Chief Executive is absent or unable to act through conflict of interest or otherwise.
Undertake emergency planning and civil defence functions	
Functions in respect of service areas	Except those Functions which are specifically allocated to Cabinet or a Cabinet Member, Joint Arrangements or other local authority or other Officer under Part 3E
Director of One Legal	
<p>Power to take and pursue legal proceedings, to include instituting or defending any appeals or litigation and the instruction of external legal advisers or counsel.</p> <p>To authorise Officers to represent the Authority before a court or tribunal pursuant to: -</p> <ul style="list-style-type: none"> (a) Paragraph 1(3) Schedule 3 of the Legal Services Act 2007 in respect of: <ul style="list-style-type: none"> (i) Section 223 of the Local Government Act 1972 (ii) Section 60 of the County Courts Act 1984 (b) Paragraph 1(7) Schedule 3 of the Legal Services Act 2007 (c) The Lay Representatives (Rights of Audience) Order 1999 	

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PART 3F

STATUTORY AND PROPER OFFICER APPOINTMENTS

General

3F.1 The Authority is required to appoint/designate officers as its statutory and proper officers. The table below identifies the Officers who have been appointed or designated proper officers for the respective functions.

[Article 17](#) (Interpretation) of the Authority's Constitution applies.

Designation	Relevant Legislation
CHIEF EXECUTIVE	
Head of Paid Service	S.4 Local Government and Housing Act, 1989
Proper Officer	S.4 Local Government and Housing Act, 1989
Proper Officer	S.30(5) Local Government Act 1972 (Notice of Ombudsman's reports)
Proper Officer	S.41 Local Government (Miscellaneous Provisions) Act 1976 (Certifying copy minutes etc.)
Proper Officer	S.83 Local Government Act, 1972 (Declaration of acceptance of office)
Proper Officer	S.84 Local Government Act, 1972 (Notice of resignation)
Proper Officer	S.88 Local Government Act, 1972 (Convening a meeting for election of Chairman etc)
Proper Officer	S.89 Local Government Act 12972 (Receiving notice of casual vacancy)
Proper Officer	S.96 Local Government Act, 1972 (Notice of Pecuniary Interests)
Proper Officer	Part VA Local Government Act, 1972 (Access to Information)
Proper Officer	The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012
Proper Officer	S.248 and 248 Local Government Act 18972 (roll of honorary aldermen and freemen)

Proper Officer	Local Government Act 1972, Schedule 12 (calling of meetings)
Proper Officer	Ss 8, 28 and 35 Representation of the People Act 1983
Proper Officer	The Local Authorities (Referendums)(Petitions and Directions)(England) Regulations 2000
Proper Officer	Ss 28,29 and 30 Regulation of Investigatory Powers Act 2000
Proper Officer	S.210 Local Government Act, 1972 (Charities)
Proper Officer	S 225 Local Government Act 1972 (receipt of documents for custody)
Proper Officer	S.2 Local Government and Housing Act, 1989 (list of politically restricted posts)
Proper Officer	Ss.236 and 238 Local Government Act, 1972 (Byelaws)
Proper Officer	S.191 Local Government Act 1972 (information on boundaries)
Proper Officer, where applied to any reference in legislation to Town Clerk or Clerk of a Council	All legislation prior to 1 April 1972
Proper Officer	All purposes not otherwise designated, other than under the Constitution, or where the designated Proper Officer is unable to act, by reason of absence, conflict of interest or otherwise
Electoral Registration Officer and Returning Officer	Ss 3 and 4 of Local Government (Contracts) Act 1997
SECTION 151 OFFICER	
Officer responsible for the administration of the financial affairs of the Council (“Section 151 Officer”)	S.151 Local Government Act, 1972
Officer responsible for the administration of the financial affairs of the	S.151 Local Government Act, 1972 S 6 Local Government and Housing Act 1989

Council.	
Proper Officer, where applied to any reference in legislation to Treasurer or Borough Treasurer	All legislation prior to 1 April, 1972
Proper Officer	S.115 Local Government Act, 1972 (Payment of money by Council officers)
Proper Officer	S.146 Local Government Act, 1972 (Transfer of securities on change of Council area, etc)
S151 Officer	S.228 Local Government Act 1972 (accounts open for inspection)
S151 Officer	S.88 (8) Environmental Protection Act, 1990 (Certificates for fixed penalties)
Proper Officer	Ss 28,29 and 30 Regulation of Investigatory Powers Act 2000
Proper Officer	Ss.229 and 234 Local Government Act, 1972 (Authentication of Documents etc)
Proper Officer	S.16 Local Government (Miscellaneous Provisions) Act 1976 (Requests for particulars of interests in land)
Proper Officer	S.93 Building Act, 1984 (Authentication of documents)
MONITORING OFFICER	
Monitoring Officer	S.5 Local Government and Housing Act, 1989
Proper Officer	S.229 Local Government Act, 1972 (Authentication of documents etc)
Proper Officer	S.41 Local Government (Miscellaneous Provisions) Act 1976 (Certifying copy minutes etc.)
Proper Officer	Ss 28,29 and 30 Regulation of Investigatory Powers Act 2000
Proper Officer	Local Government Act 1972, Schedule 14 (certifying resolutions for legal proceedings)
Proper Officer	All purposes not otherwise designated, other than under the Constitution, or where the designated Proper Officer is unable to act, by reason of absence, conflict of interest or otherwise.

Officer with responsibility for Consumer Standards and Complaints	Social Housing (Regulation) Act 2003 and Housing Ombudsman Code of Practice
Health and Safety Lead	Housing and Regeneration Act 2008 as amended by the Social Housing (Regulation) Act 2023
DIRECTOR OF PLANNING AND BUILDING CONTROL	
Proper Officer	Local Government Act 1972 (records of listed buildings)
Proper Officer, where applied to any reference in legislation to Borough Surveyor or Surveyor	All legislation prior to 1 April, 1972
HEAD OF PUBLIC PROTECTION	
Proper Officer	S.47 National Assistance Act 1948 (Orders dealing with elderly, infirm etc)
Proper Officer	Public Health (Control of Disease) Act, 1984 (notifying communicable diseases)
Proper Officer	S.49(3)(a) of the Food Safety Act, 1990 (Authentication of Documents etc)

Part 4A: Council Procedure Rules

Rule 1 General

Application and amendment of rules

- 1.1 These Procedure Rules shall apply to meetings of the Council and may only be amended or revoked by resolution of the Council.

Interpretation

- 1.2 The definitions in [Article 17](#) of the Constitution shall apply for the purpose of interpreting expressions used in these Rules and the Mayor shall be guided in their construction and application of these Rules by those definitions and by the Monitoring Officer.
- 1.3 The headings and sub-headings do not form part of these Rules.
- 1.4 The ruling of the Mayor at a Council Meeting or otherwise as to the construction or application of any of these Rules shall not be challenged at any meeting of the Council.

Service of notice and documents

- 1.5 Any notice or other document which under these Rules is required to be given or delivered to the Proper Officer may be sent by letter, fax or e-mail but shall not have been properly given or delivered until it has been actually received by the Proper Officer.

Suspension of these rules

- 1.6 These Rules (subject to the exceptions in Rule 1.7 below) may be suspended by the Council but only to the extent permitted by law and only after the advice of the Monitoring Officer has been obtained.
- 1.7 The following Rules are not capable of suspension:
[Rule 5 Motions on Notice](#)
[Rule 14.6 Right to require individual vote to be recorded](#)
[Rule 16 Prevention of Disorderly Conduct](#)
- 1.8 A motion to suspend cannot be moved without notice unless at least one half of the whole number of Members entitled to be present at the Council Meeting are present. The extent and duration of suspension must be proportionate to the result to be achieved, taking account of the purposes of the Constitution as set out in Article 1 and shall only be for so long as is necessary to transact the particular item of business necessitating the suspension.

Rule 2 Meetings of the Council

Date time and place of meetings

- 2.1 Subject to any provision in these Rules, the time and place of Meetings will be determined by the Proper Officer after such consultations as they consider necessary and as notified in the summons for the meeting.
- 2.2 The dates of the Annual and Selection, Annual and Ordinary Meetings of the Council shall be fixed by the Council before the start of, or at the first Meeting (of any sort) in the new Municipal Year.
- 2.3 In a year when there is an ordinary election of Councillors, the Annual and Selection Meeting shall take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting shall be held on a day as allowed by law and as fixed by the Council, but normally in the month of May.
- 2.4 If there is insufficient business to be transacted at a Meeting, or if an emergency or other event occurs, the Proper Officer may, after consulting such of the Mayor and the Group Leaders as can reasonably be contacted, vary any arrangement agreed by the Council under this Rule provided that specific public notice of the Meeting has not been given.

Annual and Selection Meeting

Order of Business

- 2.5 The Annual and Selection Meeting will:
- (a) choose a Person Presiding if the Mayor and Deputy Mayor are absent;
 - (b) elect the Mayor (Council Chair) for the ensuing year (who will then take the chair);
 - (c) elect the Deputy Mayor (Council Vice-Chair) for the ensuing year;
 - (d) receive any declarations of interest from Members;
 - (e) approve as a correct record any minutes of the last or previous Meetings of the Council;
 - (f) receive any announcements from the Mayor or Head of Paid Service;
 - (g) elect the Leader for the ensuing four years if the Leader was not elected for four years at the previous Selection Council;
 - (h) establish at least one Overview and Scrutiny Committee and such other Committees as the Council decides for the ensuing two years, including their size, terms of reference and the allocation of seats between the Political Groups;
 - (i) appoint Councillors, on the nomination of the Political Groups, to the Committees of the Council;
 - (j) appoint substitute Members of Committees as is permitted by [Rule 10](#) of these Rules;
 - (k) if it so decides, elect the Chairmen and/or Vice-Chairmen of Committees for the ensuing two years;
 - (l) consider any business set out in the notice convening the meeting in the order set out in items (g) to (o) of Rule 2.8;

- (m) consider any item which, by reason of special circumstances to be specified in the minutes of the Meeting, the Mayor considers should be considered at the Meeting as a matter of urgency.

Term of appointments

2.6 The Council may by resolution decide that the period for which a person is elected or appointed to any office or other position under Rules 2.5 (g), (h), and (k), is for a shorter period than two years.

Annual meeting

Order of Business

2.7 The Annual Meeting will:

- (a) choose a Person Presiding if the Mayor and Deputy Mayor are absent;
- (b) elect the Mayor (Council Chair) for the ensuing year (who will then take the chair);
- (c) elect the Deputy Mayor (Council Vice-Chair) for the ensuing year;
- (d) receive any declarations of interest from Members;
- (e) approve as a correct record any minutes of the last or previous Meetings of the Council;
- (f) receive any announcements from the Mayor, the Leader or Head of Paid Service;
- (g) consider any business set out in the notice convening the meeting in the order set out in items (g) to (o) of Rule 2.8;
- (h) consider any item which, by reason of special circumstances to be specified in the minutes of the Meeting, the Mayor considers should be considered at the Meeting as a matter of urgency.

Budget and Council Tax Setting Meeting

A Budget Meeting of the Council will take place in accordance with a programme decided by the Council and will be conducted in accordance with the Budget Protocol as set out in Annex A to these Council Procedure Rules.

Ordinary Meetings

Order of Business

2.8 Ordinary Meetings will:

- (a) choose a person to preside if the Mayor and Deputy Mayor are absent;
- (b) approve as a correct record any minutes of the last or previous Meetings of the Council;
- (c) receive any declarations of interest from Members;
- (d) receive any announcements from the Mayor, the Leader, Cabinet Members or the Head of Paid Service;

- (e) receive questions from, and provide answers to, members of the public in accordance with these Procedure Rules;
- (f) receive questions from, and provide answers to, Members in accordance with these Procedure Rules;
- (g) deal with any business outstanding from the last Council meeting;
- (h) receive any petitions and deal with any Petitions under the Council's petition scheme
- (i) receive and consider reports and recommendations from the Cabinet, Leader or Cabinet Members, including consideration of proposals in relation to the Budget and Policy Framework ;
- (j) receive and consider reports, recommendations and minutes from Committees;
- (k) receive and consider reports about joint arrangements and external organisations;
- (l) receive and consider reports from Officers, including reports from the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer
- (m) consider motions;
- (n) consider any other business specified in the summons to the meeting;
- (o) consider any item which, by reason of special circumstances to be specified in the minutes of the Meeting, the Mayor considers should be considered at the Meeting as a matter of urgency.

2.9 The order of business in Rule 2.8, other than items (a) to (f), may be varied by:

- (a) the Proper Officer in preparing the agenda for the Meeting or by the direction of the Mayor if they consider the variation to be desirable for the efficient despatch of the Council's business, or convenient, including so as to avoid duplication or repetition of matters under consideration; or
- (b) a resolution of the Council moved, seconded and put Without Comment.

Extraordinary Meetings

Calling Extraordinary Meetings

2.10 The Proper Officer may call an Extraordinary Meeting of the Council at any time when they consider it appropriate.

2.11 The Proper Officer shall call an Extraordinary Meeting of the Council when requested to do so by:

- (a) the Mayor;
- (b) the Leader;
- (c) the Council by resolution;
- (d) the Audit, Compliance and Governance Committee
- (e) the Monitoring Officer, or
- (f) a majority of the Directors.

2.12 An Extraordinary Meeting may also be called under Schedule 12 of the Local Government Act 1972 by any five Members if they have signed a requisition and

presented it to the Mayor and they have either refused to call such a Meeting or has failed to do so within seven days after the requisition was presented to them.

Order of Business

2.13 An Extraordinary Meeting will:

- (a) choose a person to preside if the Mayor and Deputy Mayor are absent;
- (b) receive any declarations of interest from Members;
- (c) receive questions from, and provide answers to, members of the public and elected Members in accordance with these Procedure Rules, but only in so far as they relate directly to the business for which the meeting was convened;
- (d) consider any business set out in the notice convening the meeting;
- (e) consider any item which, by reason of special circumstances to be specified in the minutes of the Meeting, the Mayor considers should be considered at the Meeting as a matter of urgency.

2.14 The Mayor or the Proper Officer may include on the agenda of an Extraordinary Meeting such other business as they determine should be included for the efficient despatch of Council business.

2.15 An Extraordinary Meeting may approve any minutes of the last or previous Meetings of the Council.

Rule 3 Quorum

3.1 The quorum of a Meeting will be one quarter of the whole number of Members on the Council at that time.

3.2 During any Meeting if the Mayor counts the number of Members present and declares there is not a quorum present, then they must adjourn the Meeting either temporarily for not more than 15 minutes or to a time and date fixed by the Mayor.

3.3 If they do not fix a date, the remaining business will be considered at the next Ordinary Meeting.

Rule 4 Duration of meeting

4.1 Unless the majority of Members present vote for the Meeting to continue, any Meeting of the Council that has sat for four hours in total will immediately adjourn and the remaining business will be considered at a time and date fixed by the Mayor. If they do not fix a date, the remaining business will be considered at the next Ordinary Meeting.

Rule 5 Motions on notice

5.1 Except for motions which can be moved without notice under [Rule 13.24](#), written notice of every motion, signed by the Member or Members giving it and stating the names of proposer and seconder, must be delivered to the Proper Officer not later

than midday on the 7th Working Day before the date of the meeting. A motion on notice will be open to public inspection.

- 5.2 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 at a later meeting or withdraws it.
- 5.3 Motions must be about matters for which the Council has a responsibility or which affect Cheltenham.
- 5.4 A motion under this Rule shall only be moved by the Member by whom notice has been given or someone authorised in writing by such a Member.
- 5.5 A motion which purports to take, or which has the effect of taking an executive decision which cannot be taken by the Council shall, if passed, be of no effect and shall be referred to the Cabinet for consideration.

Dealing with Motions at Meetings

5.6 The Chair (Mayor) will ask the meeting to decide whether:-

- (1) The Motion should be discussed at the meeting (although the Motion may only be discussed at the meeting if the Chair (Mayor) considers it convenient and conducive to the despatch of business and the Council considers that it has before it all the information and advice necessary to make a proper decision); or
- (2) To refer the matter without debate to Cabinet or a Committee for consideration and report back to Council as soon as practical.

If (1) is decided the relevant Councillor will be invited to propose the Motion and speak on it for no more than 10 minutes and the seconder will speak for no more than 5 minutes.

If (2) is decided the Councillor proposing the Motion will be permitted to briefly introduce the Motion.

5.2 If any item is added to the agenda after it has been published under Rule 5.1, the revised agenda shall be made available for public inspection from the time the item is added to the agenda. Where that item is the subject of a report, then the Proper Officer shall make such report available to the public as soon as it is completed and shall send the report to Members of the relevant Meeting.

Rule 6 Employees reporting directly to Council

6.1 Where an Officer submits a report directly to Council (other than jointly with the Leader, a Cabinet Member or Committee Chair):

- (a) that report shall be treated as if it was the recommendation of a Committee the adoption of which had been formally moved and seconded and no further motion is required for it to be received and approved by the Council:

- (b) if an amendment is moved to the recommendation or recommendations in the report, the Mayor may, if they consider it appropriate, invite the Officer to reply to the amendment immediately before the question is put.

- 6.2 Where an Officer submits a written report directly to Council jointly with the Leader, a Cabinet Member or Committee Chair, the Member concerned, or, if they are absent, someone on their behalf, shall move the motion to receive and approve its recommendations and, if it is subject to an amendment, shall reply to the amendment immediately before the question is put. No seconder is required in moving the motion.
- 6.3 When the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer or any other Officer is submitting a report to the Council in accordance with a statutory obligation, the Officer, or anyone on their behalf, shall have the right to address the Meeting and to answer questions arising from their report or the debate.

Rule 7 Mayor (Council Chair)

- 7.1 The Mayor shall preside at all Council Meetings at which they are present. If they are absent, or has resigned, the Deputy Mayor shall preside. If both of them are absent a Person Presiding shall be appointed under [Rule 8](#) and no business (other than the appointment of a Person Presiding) shall be transacted at that Council Meeting unless there is a Person Presiding.
- 7.2 The Mayor shall at their discretion take all such steps as they consider necessary to ensure the proper and orderly conduct of Council Meetings.
- 7.3 The ruling of the Mayor on any matter in relation to [Rule 13](#) (Rules of Debate) shall be final.
- 7.4 Where the Deputy Mayor or a Person Presiding is presiding over the meeting pursuant to Rule 7.1 they will assume all powers and duties of the Mayor for control and regulation of the meeting including the right to a second or casting vote.

Rule 8 Appointment of person presiding

List of background papers

- 8.1 For the purposes of appointing a Person presiding under Rule 7.1, the Proper Officer or the Monitoring Officer or other Officer present (in that order) shall call upon a Member present to move that a Member be appointed and shall exercise the powers of the Person Presiding to regulate that discussion and to maintain order at the Meeting, but shall not have a second or casting vote.
- 8.2 The motion, and any amendments, shall be put to the Meeting in accordance with the normal rules for electing the Mayor or making appointments, as appropriate.

- 8.3 In the event of an equality of votes, the Officer regulating the discussion may adjourn the Meeting for up to ten minutes to enable informal discussions to take place. If, after the Meeting has reconvened, there is still an equality of votes after a further vote has been taken the Officer regulating the discussion shall, unless the Meeting resolves to adjourn to another time, determine the matter by lot.

Rule 9 Previous decisions and motions

Motion to rescind previous decision

- 9.1 Subject to Rule 9.3, a motion or amendment to rescind a decision made at a Council Meeting within the previous six months cannot be moved unless the motion is submitted to the Proper Officer before the start of the Meeting and is signed by at least 15 Members.

Re-introduction of business

- 9.2 Subject to Rule 9.3, no matter which has been decided by the Council in the same way twice within a period of twelve months shall again be submitted for the Council's consideration with a view to the decision being rescinded or varied until six months after the second of such decisions.

Exception

- 9.3 Rules 9.1 and 9.2 do not apply where the matter is placed before the Council upon the recommendation of the Cabinet or a Committee or where the Monitoring Officer considers that for legal reasons or because of a material change of circumstances it is appropriate for the Council to reconsider the matter.

Rule 10 Appointment of substitute members of committees

- 10.1 The provisions relating to substitutes shall be as set out in Rule 3 of the Committee Procedure Rules (Part 4C)

Rule 11 Minutes and reports

Signing the minutes

- 11.1 The Mayor will sign the minutes of the proceedings at the next suitable meeting. They 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.

No requirement to sign minutes of previous meeting at Extraordinary Meeting

- 11.2 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an Extraordinary Meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972, the next following meeting (provided it is 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 and Rule 11.1 relating to signing of minutes.

Confidential and Exempt Information

- 11.3 All agendas and reports that are marked “Not for Publication” because they contain Confidential or Exempt information shall be treated as confidential unless and until they become public in the ordinary course of the Council’s business. All such agendas, reports and other documents shall be clearly identified by being printed on pink paper (although enclosures and other documents may be on other colours) and by being clearly stamped or otherwise marked on all pages as being confidential.
- 11.4 The Monitoring Officer shall investigate any alleged breach of Rule 11.3 and shall submit a report on the results of their investigation as appropriate to:
- the Audit, Compliance and Governance Committee
 - an Ordinary or Extraordinary meeting of the Council
- within 21 days of their supplying a copy of the report to all Members.
- 11.5 No discussion shall take place during any Council Meeting, Cabinet meeting or Committee meeting (apart from Audit, Compliance and Governance Committee) concerning any alleged breach of this Rule which is being investigated by the Monitoring Officer once it has been decided to instigate an investigation and Members have been informed accordingly, until a report on the results of the investigation has been formally supplied to all Members.

Rule 12 Public and member questions

General

- 12.1 Any person living, working or studying in the Borough of Cheltenham, or a Borough Council elected Member may at Ordinary Meetings ask written questions of:
- the Mayor;
 - the Leader;
 - a Cabinet Member;
 - Chairmen of Committees

about any matter falling within the terms of reference of the Council body or Cabinet portfolio for which they are responsible other than, in relation to a Regulatory Committee, a question concerning an application to be considered or determined by that Committee.

Order of questions

- 12.2 Questions will be divided in to public and Member questions and asked in the order notice of them was received, except where the Proper Officer decides to group together similar questions.

Notice of questions

- 12.3 Subject to Rule 12.4 and 12.4A below, a question may only be asked if notice has been given by delivering it to the Proper Officer no later than midday on the 7th Working Day before the day of the meeting. Each question must: give the name and address of the questioner, identify the Member to whom it is to be put (reference to their title is sufficient, e.g Planning Chair, Cabinet Member Finance), confirm whether the questioner proposes to attend the Meeting.

Questions on item under discussion

- 12.4 A Borough Council elected Member may ask the Leader or any Cabinet Member or the Chair of a Committee or the mover of a motion a question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or is under consideration by the Council subject to the Mayor (after consultation with the Proper Officer) being able to disallow a question if it falls within (b-e) of Rule 12.6 below.

Urgent Questions on items appearing on the agenda

- 12.4A Where in the Mayors opinion a matter to be discussed is of significant public interest, they may, after consultation with the Leader, at their discretion, dispense with the 7th working day deadline referred to in 12.3 and accept questions on notice from both Council Members and the public up until 48 hours prior to the Meeting. For the avoidance of doubt where this discretion is exercised all other provisions relating to the submission of questions remain.

Number of questions

- 12.5 No member of the public may submit more than two written questions (including sub-questions) to any one Meeting and no more than two questions (including sub-questions) may be asked on behalf of one organisation.

Scope of questions

- 12.6 The Proper Officer may reject a question if it:
- a) is submitted by someone other than a local government elector for the Borough or an elected Member;
 - b) is about a matter which does not affect the Borough or for which the Council does not have responsibility;
 - c) is defamatory, frivolous or offensive;
 - d) is substantially the same as a question which has been put at a meeting of the Council in the previous six months; or
 - e) requires the disclosure of Confidential or Exempt information.
- 12.7 The Proper Officer will inform the Mayor together with the Leader, Cabinet Member or Chair as appropriate, of every question they reject and the reasons for rejection.

Record of questions

- 12.8 The Proper Officer will ensure each question is 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.
- 12.9 Copies of all questions and written answers to them will be circulated to all Members at the start of the Meeting and will be made available to the public attending the Council Meeting.

Procedure at the Council Meeting

- 12.10 The Mayor will invite the questioner to put the question. The question need not be read out if the questioner so agrees and will not be read out if the questioner is unable to be present at the meeting.
- 12.11 Answers will be given, Without Comment, normally by a direct oral answer and a written copy of the answer will also be given to the questioner if they are present or sent to them if they are unable to attend. A written answer alone will suffice where the questioner agrees an oral answer is not necessary or an oral answer cannot conveniently be given.

Supplementary question

- 12.12 A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to their original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 12.6 above.
- 12.13 Answers to supplemental questions will be given, Without Comment, normally by a direct oral answer. A written answer to be provided to the questioner following the Meeting will suffice where the questioner agrees an oral answer is not necessary or an oral answer cannot conveniently be given.

Reference of question to the Cabinet or Committee

- 12.14 Unless the Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet or an appropriate Committee. Once seconded, such a motion will be voted on Without Comment.

Time for questions

- 12.15 No more than 30 minutes shall be set aside at any Council Meeting for the posing and answering of questions under this Rule.
- 12.16 If any questions remain to be dealt with after the end of the 30 minute period, the Mayor may at their discretion extend the period within which the questions may be put and answered if satisfied that the remaining questions can be dealt with expeditiously and they are of sufficient urgency.

- 12.17 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.

Rule 13 Rules of debate (See Motion Flow Charts – [Appendix A](#))

Members to address the chair

- 13.1 A Member shall speak only when called to do so by the Mayor. A Member shall address the Mayor only.

Speaking

- 13.2 For the purposes of inclusivity, Members can either stand or remain seated when addressing the meeting.

Mayor standing

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

Members' Speeches

- 13.4 Members shall address or refer to each other only as "Councillor". When a Member is speaking other Members shall remain silent, unless raising a point of order or a personal explanation.

No speeches until motion seconded

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

Seconders' speech

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

Content of speeches

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

Right to require motion in writing

- 13.8 Unless notice of the motion (including an amendment) has already been given, the Mayor may require it to be written down and handed to them before it is discussed.

Questions in the Debate

- 13.9 Once a motion has been proposed and seconded the Mayor shall first allow questions to be put by Members under [Rule 12.4](#). The Mayor may in the interests of the efficient despatch of business limit:
- (a) the total number of questions;
 - (b) the number of questions to be put by one Member or by persons from a Political Group; or
 - (c) the time to be allowed for questions under this Rule.

When a Member may speak again

- 13.10 A Member who has spoken on a motion or an amendment may not speak again whilst it is the subject of debate, except:
- (a) in exercise of a right of reply;
 - (b) except where an amendment is under discussion, to move an amendment in which case they shall not speak for more than three minutes;
 - (c) to speak to an amendment to it;
 - (d) on a point of order; and,
 - (e) with the consent of the Mayor, in personal explanation.

Length of Speeches

- 13.11 The proposer of a motion and the mover of an amendment may speak for no more than 10 minutes when:
- (a) proposing the motion or moving an amendment; and
 - (b) replying to the debate immediately before it is put to the vote

unless the Council votes to allow them to continue.

No other speech shall last more than 3 minutes without the consent of the Meeting given Without Comment.

Amendments to motions

- 13.12 An amendment to a motion must be relevant to the motion and will either be:
- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (b) to leave out words;
 - (c) to leave out words and insert or add others; or
 - (d) to insert or add words.

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

- 13.13 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of, although notice of further amendments may be given.

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

Withdrawal or alteration of motion

- 13.19 A Member may without notice withdraw or alter a motion which they have moved with the consent of both the Meeting signified Without Comment and the seconder.

Right of reply

- 13.20 The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- 13.21 If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- 13.22 The mover of the amendment has the right of reply to the debate on their amendment immediately before the final speech of the mover of the original motion.

Motions which may be moved during debate

- 13.23 When a motion is under debate, no other motion may be moved except a procedural motion under Rule 13.24.

Procedural Motions

- 13.24 The following procedural motions may be moved without notice:
- (a) to elect in the event of a vacancy a mayor or Deputy Mayor or to appoint a Person Presiding for the meeting at which the motion is moved;
 - (b) in relation to the accuracy of the minutes;
 - (c) to change the order of business on 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;
 - (f) to receive reports of or adopt recommendations of Committees or Officers and any resolutions following from them;
 - (g) to make any decision arising out of or directly relevant to an item on the summons for the Meeting;
 - (h) to give leave to withdraw or alter a motion;
 - (i) to amend a motion;

- (j) to reject a motion;
- (k) to proceed to the next business;
- (l) that the question be now put;
- (m) to adjourn a debate;
- (n) to adjourn a meeting;
- (o) that the meeting continue beyond four hours in duration;

- (p) to consent to an extension of speech under Rule 13.11;
- (q) to suspend a Procedure Rule;
- (r) to exclude the public and press in accordance with the Access to Information Rules;
- (s) to not hear further a Member named or to exclude them from the meeting under Rule 18;
- (t) to give the consent of the Council where its consent is required by this Constitution.

Motion to proceed to the next business

13.25 If a procedural motion "to proceed to the next business" is moved and, seconded the Mayor must give -

- (a) where the original motion is being debated, the mover of that motion: and
- (b) where an amendment to the original motion is being debated, both the mover of that amendment and the mover of the original motion

a right to reply and then put the procedural motion to the vote Without Comment. If the procedural motion is carried the original motion and any amendment thereto will lapse.

Motion that the question be now put

13.26 If a procedural motion "that the question be now put" is moved and seconded and the Mayor considers that the item has been sufficiently discussed, they must put the procedural motion to the vote Without Comment. If the procedural motion is carried, the Mayor must give -

- (a) in the case of an original motion, the mover of that motion: and
- (b) in the case of an amendment, both the mover of the amendment and the mover of the original motion

a right of reply and then put the motion to the vote without comment.

Motion to adjourn the debate or meeting

13.27 If a procedural motion to adjourn the debate or to adjourn the meeting is moved and seconded and the Mayor considers the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote Without Comment and without giving the mover of the original motion the right of reply.

- 13.28 If a motion to adjourn the debate or meeting is carried the item under discussion or remaining business shall stand over as uncompleted business to the next Ordinary Meeting.
- 13.29 If a motion to adjourn the debate or meeting is rejected, a similar motion cannot be moved within 30 minutes, except with the consent of the Meeting signified by vote Without Comment.

Point of order

- 13.30 A Member may raise a point of order at any time and the Mayor shall hear them immediately. A point of order may only relate to an alleged breach of these Procedure Rules or the law. The Member must indicate the rule or law and the way in which they consider it has been breached.

Personal explanation

- 13.30 A Member may, with the consent of the Mayor, make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by that Member which may appear to have been misunderstood in the present debate.

Rule 14A Restriction of members participation

- 14A.1 A Member must withdraw from a meeting (including from the public area/gallery) during the whole of the consideration of any item of business in which the Member has a Disclosable Pecuniary Interest, or in which the Member has an “other” interest where, as a consequence of Paragraph 10(4) of the Council’s Code of Conduct, the Member is required to leave the meeting and not participate or vote on the matter, unless the Member is permitted to remain through the granting of a dispensation.

Rule 14 Voting

Majority

- 14.1 Unless the law requires or this Constitution provides otherwise, all matters will be decided by a simple majority of those Members voting and present in the room at the time the question is put.

Casting vote

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

Show of hands/Electronic voting system

- 14.3 Unless a ballot or recorded vote is demanded under Rules 14.4 and 14.5, the Mayor will take the vote by show of hands or by using the electronic voting system, or if there is no dissent, by the affirmation of the meeting.

Ballots

- 14.4 The vote will take place by secret ballot if seven Members at a Council Meeting demand it, provided that any Member who wishes to have the way their vote is cast recorded in the minutes of the Meeting may cast their vote under Rule 14.6 and not by ballot. The Mayor will announce the numerical result of the ballot immediately the result is known.

Recorded vote

- 14.5 The vote will be recorded if seven Members at a Council 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.

Right to require individual vote to be recorded

- 14.6 Where any Member requests it, immediately after the vote is taken, their vote will, unless it is a recorded vote under Rule 14.5, be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

Voting on appointments

- 14.7 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, the name of the person with the least number of votes will be taken off the list and a new vote taken. In the event of more than one person having the least number of votes, the Mayor shall have a second and casting vote to determine who shall be taken off the list. The process will continue until there is a majority of votes for one person.
- 14.8 In the event of two or more persons receiving the same number of votes and also receiving the highest number of votes, a further vote will be taken between those persons only and the Mayor shall have a second or casting vote
- 14.9 Where more than one person is required to be appointed by the Council and the number of persons nominated exceeds the number of vacancies, the number of persons equal to the number of vacancies who receive the greatest number of votes shall be appointed.
- 14.10 In the event of persons receiving the same number of votes so that the number of persons receiving the greatest number of votes exceeds the number of vacancies, a further vote will be taken between those persons only.

Rule 15 Exclusion of the public

15.1 Members of the public and press may only be excluded either in accordance with the Access to Information Rules in [Part 4E](#) of this Constitution or Rule 16 (Disorderly Conduct).

Rule 16 Prevention of disorderly conduct

Members

16.1 If the Mayor is of the opinion that a Member has misconducted, or is misconducting, himself/herself by persistently disregarding the ruling of the Mayor, or by behaving irregularly, improperly or offensively, or wilfully obstructing the business of the Council, they may notify the Meeting of that opinion, and may take any of the following courses, either separately or in sequence:

- (a) they may direct the Member to refrain from speaking during all, or part, of the remainder of the Meeting;
- (b) they may direct the Member to withdraw from all, or part, of the remainder of the Meeting;
- (c) they may direct that the Member be removed from the Meeting;
- (d) they may adjourn the meeting for 15 minutes or such period as shall seem expedient to them.

16.2 A direction made under Rule 16.1 above may also be made by the Meeting on a motion proposed and seconded and put Without Comment.

The Public

16.3 If a member of the public interrupts proceedings at any Meeting, the Mayor shall warn them. If they continue the interruption, the Mayor shall order them to leave the room where the meeting is being held. If they do not leave, the Mayor shall order them to be removed. If a member of the public persistently creates a disturbance, the Mayor may adjourn the meeting for 15 minutes or such period as shall seem expedient to them.

General

16.4 In the event of general disturbance in any part of the room where any Council Meeting is being held which is open to the public, the Mayor shall order that part to be cleared and may adjourn the meeting for 15 minutes or such period as shall seem expedient to them.

16.5 The powers conferred by this Rule are in addition to any other powers which the Mayor may lawfully exercise.

Annex A

BUDGET COUNCIL PROTOCOL

1. Legal Requirements

- 1.1 The requirements of relevant legislation, particularly the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (referred to in this Protocol as "the Regulations") must be complied with.
- 1.2 The Regulations require the budget to be presented to Full Council by way of a recommendation from the Cabinet.
- 1.3 The budget proposal may be amended, see section 3. While an amendment can be quite wide ranging it is not permissible for a Member to introduce a different motion recommending a different budget. This would be contrary to the Regulations which require that the budget be recommended to the Council by the Cabinet.
- 1.4 Under Section 25 of the Local Government Act 2003 the Deputy Chief Executive, fulfilling the role of Chief Finance Officer, is under a statutory duty to report on the robustness of the budget estimates and the adequacy of the proposed financial reserves ("the Section 25 report") before the budget decision is taken. The Council must have regard to the Deputy Chief Executive's report before reaching a decision. This will apply to amendments as outlined in section 3.
- 1.5 A flowchart illustrating the procedure set out below is included as Annex A to this protocol.

2. Procedure

- 2.1 The procedure at Budget Council is governed by the Constitution.
- 2.2 The Cabinet recommendation on the budget will be proposed by the Cabinet Member with responsibility for Finance or by another Member of the Cabinet.
- 2.3 The budget proposer will introduce the budget (no time limit).
- 2.4 Members may then ask questions of the Cabinet Member with responsibility for Finance (who may refer them to the Chief Finance Officer or relevant Cabinet Member when appropriate). (N.B. there is no limit on the number of questions members may raise).
- 2.5 The Chair will then ask the largest opposition group if they wish to make a statement, which can include tabling but not moving any proposed amendment to the Cabinet's budget (no time limit).
- 2.6 The Chair will then ask the other opposition groups (in order of size) if they wish to make a statement, which can include tabling but not moving any proposed amendment to the Cabinet's budget (no time limit).

3. Amendments

- 3.1 Amendments to the budget motion may have significant implications for the calculations used in producing the budget recommendation and for the level of Council Tax and/or the Council's reserves. Therefore, any Member wishing to move an amendment which affects any of the proposals in the budget recommendation to any material extent should provide a copy of the amendment to the Deputy Chief Executive as early as possible before the meeting, preferably at least 2 days before the meeting, but by no later than 3.00 p.m. on the day before the Council meeting.
- 3.2 The Deputy Chief Executive, may need to discuss any proposed amendment with Officers and will need to show the proposed amendment to the Monitoring Officer but otherwise, unless the proposing group gives their express authority to share the amendment with the administration, the Deputy Chief Executive guarantees absolute confidentiality in relation to any amendment received. The Monitoring Officer will also maintain this confidentiality.
- 3.3 The Section 25 report provisions apply also to any amendments which affect the estimates. The Section 25 report provisions do not, however, apply to an amendment which does not affect the estimates, such as an amendment to refer the matter back to the Cabinet for reconsideration. It should, however, be borne in mind that any resolution of the Council to refer the budget back to the Cabinet would result in Council being unable to set the budget. The budget as a whole would be returned to Cabinet for further consideration and come back to Council for a decision at a later date which may have cost implications for the Council in that it may cause a delay in the Council Tax billing process.
- 3.4 If an amendment to refer a recommendation back to the Cabinet is carried then it is likely that a special meeting of the Cabinet will be called early in the week following the Budget Council meeting, with the matter then being reported back to a special Full Council meeting later that week.
- 3.5 The largest opposition group will have the first opportunity to present budget amendments. The largest opposition group will have 10 minutes to present the amendment(s). The Secunder of the amendment will have 5 minutes to speak and may reserve their right to speak until later.
- 3.6 The other opposition groups, in order of size, will then have the opportunity to present budget amendments. The proposer will have 10 minutes to present the amendment(s). The Secunder of the amendment will have 5 minutes to speak and may reserve their right to speak until later.
- 3.7 Any Independent Members will then have 10 minutes to present amendments. The Secunder of the amendment will have 5 minutes to speak and may reserve their right to speak until later.
- 3.8 After all amendments have been presented, there will be the opportunity for points of clarification to be raised and responses given.

- 3.9 Once points of clarification have been dealt with there will then be a 20 minute adjournment of Council to allow Groups 20 minutes to consider the amendments.
- 3.10 The Cabinet Member with responsibility for Finance, or other Cabinet Member if they introduced the budget proposals, will address Council advising of any budget amendments which have been accepted by the Cabinet.
- 3.11 The amendments not accepted by the Cabinet will then be debated in the order in which they were originally presented to Council.
- 3.12 For any amendments which are not accepted, the Proposers of the amendments have the right to speak for 5 minutes each to sum up the debate.
- 3.13 The Cabinet Member with responsibility for Finance, or other Cabinet Member if they introduced the budget proposals, has the final right of response before a recorded vote is taken on each amendment (10 minutes).
- 4. Return to the Substantive Budget Debate**
- 4.1 Once all of the amendments have been dealt with the final proposal will be debated and voted upon.
- 4.2 Upon conclusion of the debate, the Cabinet Member with responsibility for Finance will have the final right of reply (10 mins).
- 4.3 A recorded vote will be taken.



CHELTENHAM BOROUGH COUNCIL BUDGET SETTING PROCESS



